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Statutes  
Ont

Ontario Statutes

# THE REVISED STATUTES

OF  
ONTARIO, 1937

BEING A

REVISION AND CONSOLIDATION OF THE REVISED STATUTES  
OF ONTARIO, 1927, AND THE SUBSEQUENT PUBLIC  
GENERAL ACTS

OF THE

LEGISLATURE OF ONTARIO

VOL. I.



ONTARIO

TORONTO:

PRINTED BY T. E. BOWMAN,  
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# THE REVISED STATUTES OF ONTARIO,

## 1937

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# An Act to provide for the Consolidation of the Statutes of Ontario.

## CHAPTER 6 OF THE STATUTES OF 1937.

*Assented to March 8th, 1937.  
Session Prorogued March 25th, 1937.*

**W**HEREAS it is expedient to consolidate and revise the public Statutes of this Province; and whereas such consolidation and revision are being made by the Legislative Counsel under the direction of the Attorney-General; and whereas it is in the public interest that the said consolidation and revision should as soon as practicable, and prior to the holding of another session of this Legislature, be issued and authorized as the Revised Statutes of Ontario, 1937;

Preamble

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Legislative Counsel is hereby appointed a Commissioner to consolidate and revise the public Statutes of Ontario in accordance with the provisions of this Act.

Legislative  
Counsel  
appointed  
Commissioner.

2. As soon as the said Commissioner shall report in writing, signed by him, the completion of the said consolidation and revision, including therein such Acts and parts of Acts passed during the present session as the Lieutenant-Governor may deem advisable to be included, the Lieutenant-Governor may cause a printed Roll thereof, attested by his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Assembly.

Printed  
Roll to be  
deposited  
with  
Clerk of  
Legislative  
Assembly.

3. There may be appended to the said Roll,—

Appendices.

- (a) An appendix marked "Appendix 'A' " similar in form to Appendix "A" appended to the Revised Statutes of Ontario, 1927, showing certain Acts and parts of Acts not repealed by the Revised Statutes of Ontario, 1937, and in force in Ontario subject thereto; and

- (b) An appendix marked "Appendix 'B'" similar in form to Appendix "B" appended to the Revised Statutes of Ontario, 1927, showing certain Imperial Statutes and Statutes of Canada relating to the constitution and boundaries of Ontario.

Schedule  
of Acts  
repealed.

4.—(1) There shall be appended to the said Roll a schedule marked "Schedule 'A'" similar in form to Schedule "A" appended to the Revised Statutes of Ontario, 1927, showing Acts contained in the said Revised Statutes of Ontario, 1927, and other Acts of the Legislature of Ontario which are repealed in whole or in part from the day upon which the Revised Statutes of Ontario, 1937, take effect and the extent of such repeal.

Schedule  
of parts  
of Acts  
repealed,  
superseded,  
consolidated,  
etc.

(2) There may be appended to the said Roll a schedule marked "Schedule 'B'" similar in form to Schedule "B" appended to the Revised Statutes of Ontario, 1927, showing Acts and parts of Acts which are repealed, superseded and consolidated in the Revised Statutes of Ontario, 1937, and showing also what portions of the Revised Statutes of Ontario, 1927, and Acts of the Legislature passed thereafter are not consolidated.

Effect of  
insertion of  
an Act in  
Schedule.

(3) The insertion of any Act in the said Schedules or either of them shall not be construed as a declaration that such Act or any part thereof was or was not in force immediately before the coming into force of the said Revised Statutes.

Power of  
Commissioner.

5. In consolidating and revising the said Statutes the Commissioner may alter the numbering and arrangement of the Statutes and of the different sections thereof, and may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what is deemed to be the intention of the Legislature or to reconcile seemingly inconsistent enactments, or to correct clerical, grammatical or typographical errors, and may include in such consolidation and revision such private Acts relating to professions and callings as are considered to have general application throughout the Province.

Proclama-  
tion  
declaring  
Statutes  
in force.

6. The Lieutenant-Governor in Council after the deposit as aforesaid of the said Roll may by proclamation declare the day from and after which the same shall come into force and have effect as law by the designation of "The Revised Statutes of Ontario, 1937."

Effect of  
proclama-  
tion.

7. On and from such day the same shall accordingly come into force and effect by the said designation to all intents

as though the same were expressly embodied in and enacted by this Act to come into force and have effect on and from such day; and on and from the same day all the enactments in the several Acts and parts of Acts in the said Schedule "A" mentioned shall stand and be repealed to the extent mentioned in the third column of the said Schedule.

8. Except as otherwise provided in this Act the rules of construction and interpretation declared by the Revised Statutes to be applicable in the construction and interpretation of the Statutes of Ontario shall apply to the said Revised Statutes and to this Act.

Rules of construction and interpretation to apply.

9. Any reference in any former Act remaining in force or in any instrument or document, to any Act or enactment so repealed shall, after the Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Revised Statutes having the same effect as such repealed Act or enactment.

References to repealed Acts in former Acts, etc.

10. Copies of the said Revised Statutes as printed by the King's Printer, shall be received as evidence of the said Revised Statutes in all courts and places whatsoever.

Copies printed by King's Printer to be evidence.

11. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Lieutenant-Governor in Council may direct.

As to distribution of copies.

12. This Act shall be printed with the Revised Statutes and shall be subject to the same rules of construction as the said Revised Statutes.

This Act to be printed with Revised Statutes.

13. Any chapter of the Revised Statutes may be cited and referred to in any Act or proceeding whatever, either by its title as an Act or by using the expression "The Revised Statutes of Ontario, 1937, chapter " (adding the number of the particular chapter in the copies printed by the King's Printer).

How Acts may be cited.

14. This Act shall come into force on the day upon which it receives the Royal Assent.

Commencement of Act.



# REVISED STATUTES OF ONTARIO

## 1937

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### SECTION I.

#### PRELIMINARY.

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#### CHAPTER 1.

##### The Interpretation Act.

**1.** The provisions of this Act shall extend and apply to every Act of this Legislature contained in these Revised Statutes or hereafter passed, except in so far as any such provision

Application  
of Act.

(a) is inconsistent with the intent or object of such Act;  
or,

(b) would give to any word, expression or clause of any Act an interpretation inconsistent with the context; or,

(c) is in any such Act declared not applicable thereto.  
R.S.O. 1927, c. 1, s. 1.

**2.** Where an Act contains an interpretation section or provision, the same shall be read and construed as subject to the same exceptions as those contained in section 1.  
R.S.O. 1927, c. 1, s. 2.

Interpreta-  
tion sections  
in other  
Acts.

**3.** The provisions of this Act shall apply to the construction thereof and to the words and expressions used therein.  
R.S.O. 1927, c. 1, s. 3.

Application  
to the Act  
itself.



## RULES OF CONSTRUCTION.

Law always speaking.

4. The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its true intent and meaning. R.S.O. 1927, c. 1, s. 4.

What may be done under an Act before date of commencement.

5. Where an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any order-in-council, order, warrant, scheme, letters patent, rules, regulations or by-laws, to give notices, to prescribe forms or to do any other thing for the purposes of the Act, that power, unless the contrary intention appears, may be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction that any instrument made under the power, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, shall not come into operation until the Act comes into operation. R.S.O. 1927, c. 1, s. 5.

Meaning of expressions used in instruments issued under any Act.

6. Where any Act confers power to make, grant or issue any order-in-council, order, warrant, scheme, letters patent, rules, regulations or by-laws, expressions used therein, unless the contrary intention appears, shall have the same meaning as in the Act conferring the power. R.S.O. 1927, c. 1, s. 6.

Judicial notice.

7. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all judges, justices of the peace, and others, without being specially pleaded. R.S.O. 1927, c. 1, s. 7.

Effect of preamble.

8. The preamble of an Act shall be deemed a part thereof and intended to assist in explaining the purport and object of the Act. R.S.O. 1927, c. 1, s. 8.

Marginal notes, headings, etc., not part of statutes.

9. The marginal notes and headings in the body of the statutes and the references to former enactments shall form no part of the statutes but shall be deemed to be inserted for convenience of reference only. 1937, c. 33, s. 2.

All Acts remedial.

10. Every Act shall be deemed remedial, whether its immediate purport be to direct the doing of anything which this Legislature deems to be for the public good, or to prevent or punish the doing of anything which it deems to be contrary to the public good, and shall accordingly receive

such fair, large and liberal construction and interpretation <sup>Construction.</sup> as will best ensure the attainment of the object of the Act, and of the provision or enactment, according to the true intent, meaning and spirit thereof. R.S.O. 1927, c. 1, s. 9.

**11.** No Act shall affect the rights of His Majesty, His <sup>The Crown.</sup> Heirs or Successors, unless it is expressly stated therein that His Majesty shall be bound thereby. R.S.O. 1927, c. 1, s. 10.

**12.** No Act of the nature of a private Act shall affect the <sup>Private Acts.</sup> rights of any person, or body corporate, politic or collegiate, such only excepted as are therein mentioned or referred to. R.S.O. 1927, c. 1, s. 11.

#### REPEAL, AMENDMENT AND CONSOLIDATION.

**13.** Every Act shall be construed as reserving to this <sup>Reservation of power</sup> Legislature the power of repealing or amending it, and of <sup>to repeal or amend.</sup> revoking, restricting, or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction, or modification is deemed by the Legislature to be required for the public good. R.S.O. 1927, c. 1, s. 12.

**14.** Where an Act is repealed or wherever any regulation <sup>Repeal,— effect of.</sup> is revoked, such repeal or revocation shall not, save as in this section otherwise provided,

- (a) revive any Act, enactment, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect;
- (b) affect the previous operation of any Act, enactment, regulation or thing so repealed or revoked;
- (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, enactment, regulation or thing so repealed or revoked;
- (d) affect any offence committed against any Act, enactment, regulation or thing so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof;
- (e) affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Act, enactment, regulation or thing had not been repealed or revoked. R.S.O. 1927, c. 1, s. 13.

When other  
provisions  
substituted.

**15.** If other provisions are substituted for those so repealed or revoked,

- (a) all officers and persons acting under the Act, enactment, regulation or thing so repealed or revoked, shall continue to act as if appointed under the provisions so substituted until others are appointed in their stead;
- (b) all proceedings taken under the Act, enactment, regulation or thing so repealed or revoked, shall be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be;
- (c) in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, enactment, regulation or thing so repealed or revoked, or in any other proceeding in relation to matters which have happened before the repeal or revocation, the procedure established by the substituted provisions shall be followed so far as it can be adopted; and
- (d) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act, enactment, regulation or thing whereby such other provisions are substituted, the penalty, forfeiture or punishment, if imposed or adjudged after such repeal or revocation, shall be reduced or mitigated accordingly. R.S.O. 1927, c. 1, s. 14.

Amendment,  
consolidation  
or revision.

**16.** Where any Act or enactment is repealed and other provisions are substituted by way of amendment, revision or consolidation,

- (a) all regulations, orders, ordinances, rules and by-laws made under the repealed Act or enactment shall continue good and valid in so far as they are not inconsistent with the substituted Act or enactment until they are annulled and others made in their stead; and
- (b) any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing be held

and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject matter, and if there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such unrepealed Act or enactment, or such rule, order or regulation made thereunder. R.S.O. 1927, c. 1, s. 15.

**17.** The repeal of an Act or enactment shall not be deemed to be or to involve a declaration that such Act or enactment was, or was considered by the Legislature to have been previously in force. R.S.O. 1927, c. 1, s. 16.

Repeal of Act not a declaration that Act was in force.

**18.** The repeal or amendment of any Act shall not be deemed to be or to involve any declaration as to the previous state of the law. R.S.O. 1927, c. 1, s. 17.

Repeal or amendment not a declaration of previous state of the law.

**19.** The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by the Legislature to have been, different from the law as it has become under such Act as so amended. R.S.O. 1927, c. 1, s. 18.

Amendment of Act not a declaration of different state of law.

**20.** The Legislature shall not, by re-enacting an Act or enactment, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has by judicial decision or otherwise, been placed upon the language used in such Act or enactment or upon similar language. R.S.O. 1927, c. 1, s. 19.

Re-enactment, etc., not an adoption of judicial construction.

#### PROCLAMATIONS.

**21.** Where the Lieutenant-Governor is authorized to do any act by proclamation, such proclamation is to be understood to be a proclamation issued under an order of the Lieutenant-Governor in Council; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order. R.S.O. 1927, c. 1, s. 20.

Lieutenant-Governor acting by proclamation.

#### CROWN APPOINTMENTS.

**22.** Authority to the Lieutenant-Governor to make an appointment to any office, by commission or otherwise, shall be deemed authority to appoint during pleasure. R.S.O. 1927, c. 1, s. 21.

Tenure of office.



## OATHS.

Administra-  
tion of  
oaths.

**23.**—(1) Where by an Act of this Legislature or by a rule of the Assembly, or by an order, regulation or commission made or issued by the Lieutenant-Governor in Council under a law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, the oath may be administered and a certificate of its having been made, taken or administered may be given by anyone named in the Act, rule, order, regulation or commission, or by a judge of any court, a notary public, justice of the peace, or commissioner for taking affidavits, having authority or jurisdiction in the place where the oath is administered.

Certificate of  
administra-  
tion of oaths.

Taking  
declarations.

(2) Any officer authorized to administer an oath or take an affidavit may take any declaration authorized or required by an Act of this Legislature.

Authority of  
justices.

(3) Every justice of the peace having authority in Ontario shall have the same powers to take and receive affidavits and affirmations as a commissioner appointed under *The Commissioners for taking Affidavits Act*.

Rev. Stat.,  
c. 121.

Authority  
generally.

(4) In every case where an oath, affirmation or declaration is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify to its having been made. R.S.O. 1927, c. 1, s. 22.

## REGULATIONS.

Regulations.

**24.** The Lieutenant-Governor in Council may make regulations for the due enforcement and carrying into effect of any Act of this Legislature, and may prescribe forms, and may, where there is no provision in the Act, fix fees to be charged by all officers and persons by whom anything is required to be done. R.S.O. 1927, c. 1, s. 23.

## IMPRISONMENT.

Imprison-  
ment,  
place of.

**25.** If in any Act any person is directed to be imprisoned or committed to prison, the imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common gaol of the locality in which the order for the imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality. R.S.O. 1927, c. 1, s. 24.



**26.** Where power to impose imprisonment is conferred by any Act it shall authorize the imposing of imprisonment with hard labour. R.S.O. 1927, c. 1, s. 25.

#### OFFENCE UNDER MORE THAN ONE PROVISION.

**27.** Where an act or omission constitutes an offence under two or more Acts, or an offence both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same act or omission. R.S.O. 1927, c. 1, s. 26.

#### CORPORATIONS.

**28.** In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate shall,—

- (a) vest in such corporation power to sue and be sued, to contract and be contracted with by their corporate name, to have a common seal, to alter or change the same at their pleasure, to have perpetual succession, to acquire and hold personal property or moveables for the purpose for which the corporation is constituted, and to alienate the same at pleasure;
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts; and
- (c) exempt individual members of the corporation from personal liability for its debts, obligations or acts if they do not contravene the provisions of the Act incorporating them. R.S.O. 1927, c. 1, s. 27.

#### IMPLIED PROVISIONS.

**29.** In every Act, unless the contrary intention appears,

- (a) if anything is directed to be done by or before a magistrate, or a justice of the peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done;

Implied  
powers.

- (b) wherever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing;

Acts to be  
done by  
more than  
two.

- (c) where an act or thing is required to be done by more than two persons, a majority of them may do it;

Deviation  
from forms.

- (d) where forms are prescribed, deviations therefrom not affecting the substance or calculated to mislead, shall not vitiate them;

Powers and  
duties to be  
exercised and  
performed  
from time  
to time.

- (e) if a power is conferred or a duty imposed on the holder of any office as such, the power may be exercised and the duty shall be performed from time to time as occasion requires;

To be exer-  
cised and  
performed by  
holder of  
office for  
time being.

- (f) if a power is conferred or a duty imposed on the holder of any office as such, the power may be exercised and the duty shall be performed by the holder for the time being thereof;

Power to  
make by-  
laws, etc., to  
confer power  
to alter.

- (g) if power is conferred to make by-laws, regulations, rules or orders, it shall include power to alter or revoke the same from time to time and make others;

Computa-  
tion of time  
where time  
limited  
expires on  
a holiday.

- (h) if the time limited by any Act for any proceeding or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following which is not a holiday;

Number and  
gender.

- (i) words importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females as well as males and the converse;

Idem.

- (j) a word interpreted in the singular number shall have a corresponding meaning when used in the plural;

Words  
authorizing  
appointment  
include  
power to  
remove.

- (k) words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, reappointing him, or appointing another in his stead, from time to time in the discretion of the authority in whom the power of appointment is vested;

- (l) words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, shall include his successors in such office and his or their lawful deputy; Directions to public officer to apply to his successors and deputy.
- (m) where reference is made by number to two or more sections, subsections, paragraphs or clauses in any statute, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference. R.S.O. 1927, c. 1, s. 28. Reference to sections by numbers.

## PROCEDURE.

**30.** When by any Act an appeal to the Court of Appeal is permitted such appeal shall be made in the time and manner prescribed by the rules of court. R.S.O. 1927, c. 1, s. 29; 1931, c. 24, s. 2. Appeals to Court of Appeal.

**31.** Unless otherwise provided where by any Act an application to a court or a judge is permitted such application may be made by originating notice in the manner prescribed by the rules of court. R.S.O. 1927, c. 1, s. 30. Application to court or judge—procedure.

## WORDS AND TERMS.

**32.** In every Act, unless the context otherwise requires, Words and terms.

- (a) "Act" shall include enactment; "Act."
- (b) "Affidavit" shall, in the case of persons allowed by law to affirm or declare instead of swearing, include affirmation and declaration; R.S.O. 1927, c. 1, s. 31, cls. (a, b). "Affidavit."
- (c) "Assembly" shall mean the Legislative Assembly of Ontario; "Assembly."
- (d) "County" shall include two or more counties united for purposes to which the Act relates; R.S.O. 1927, c. 1, s. 31, cls. (d, e). "County."
- (e) "Court of Appeal" shall mean The Court of Appeal for Ontario; 1937, c. 33, s. 3 (2), *part*. "Court of Appeal."
- (f) "Felony" shall mean any crime, which, before the passing of *The Criminal Code, 1892*, of Canada, would have been a felony under the law of Canada; "Felony."

"Great Seal."

(g) "Great Seal" shall mean the Great Seal of Ontario;

"Herein."

(h) "Herein" used in any section of an Act shall be understood to relate to the whole Act and not to that section only; R.S.O. 1927, c. 1, s. 31, cls. (g-i).

"High Court."

(i) "High Court" shall mean The High Court of Justice for Ontario; 1937, c. 33, s. 3 (2), *part*.

"His Majesty, etc."

(j) "His Majesty," "Her Majesty," "The King," "The Queen," or "The Crown," shall mean the Sovereign of Great Britain, Ireland and the Dominions beyond the Seas for the time being; R.S.O. 1927, c. 1, s. 31, cl. (k).

"Holiday."

(k) "Holiday" shall include Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, the birthday or the day fixed by proclamation of the Governor-General for the celebration of the birthday of the reigning Sovereign, Victoria Day, Dominion Day, Labour Day, Remembrance Day, and any day appointed by proclamation of the Governor-General or the Lieutenant-Governor as a public holiday or for a general Fast or Thanksgiving; and whenever any holiday except Remembrance Day falls on a Sunday, the day next following shall be in lieu thereof a holiday; R.S.O. 1927, c. 1, s. 31, cl. (l); 1934, c. 24, s. 2; 1937, c. 33, s. 3 (1).

"Justice of the peace."

(l) "Justice of the peace" shall include two or more justices of the peace or magistrates assembled or acting together;

"Legally qualified medical practitioner."

(m) "Legally qualified medical practitioner," "duly qualified medical practitioner," or any words importing legal recognition of any person as a medical practitioner or member of the medical profession, shall mean a person registered under *The Medical Act*;

Rev. Stat., c. 225.

"Lieutenant-Governor" or "Governor."

(n) "Lieutenant-Governor" shall mean the Lieutenant-Governor of Ontario, or the Chief Executive Officer or Administrator for the time being carrying on the government of Ontario, by whatever title he is designated;

"Lieutenant-Governor in Council."

(o) "Lieutenant-Governor in Council" shall mean the Lieutenant-Governor of Ontario, or person administering the government of Ontario for the time being acting by and with the advice of the Executive Council of Ontario;

- (p) "Lower Canada" shall mean all that part of Canada which formerly constituted the Province of Lower Canada; R.S.O. 1927, c. 1, s. 31, cls. (m-q). <sup>"Lower Canada."</sup>
- (q) "Magistrate" shall include a deputy magistrate and a police magistrate and deputy police magistrate within the meaning of *The Criminal Code*. 1937, c. 33, s. 3 (2), *part*. <sup>"Magistrate."</sup>
- (r) "May" shall be construed as permissive: R.S.O. 1927, c. 1, s. 31, cl. (s). <sup>"May."</sup>
- (s) "Mental defective" and "mentally defective person" shall mean a person in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others; <sup>"Mental defective."</sup>
- (t) "Mental deficiency" shall mean the condition of mind of a mental defective; <sup>"Mental deficiency."</sup>
- (u) "Mentally ill person" shall mean a person other than a mental defective who is suffering from such a disorder of the mind that such person requires care, supervision and control for his own protection or welfare, or for the protection of others; <sup>"Mentally ill person."</sup>
- (v) "Mental illness" shall mean the condition of mind of a mentally ill person; <sup>"Mental illness."</sup>
- (w) "Mental incompetent" and "mentally incompetent person" shall mean a person,— <sup>"Mental incompetent."</sup>
- (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
  - (ii) who is suffering from such a disorder of the mind,

that he requires care, supervision and control for his protection and the protection of his property.

- (x) "Mental incompetency" shall mean the condition of mind of a mentally incompetent person; 1937, c. 33, s. 3 (2), *part*. <sup>"Mental incompetency."</sup>



"Misdemeanor."

- (y) "Misdemeanour" shall mean any crime which before the passing of *The Criminal Code, 1892*, of Canada, would have been a misdemeanour under the law of Canada;

"Month."

- (z) "Month" shall mean a calendar month.

"Newspaper."

- (za) "Newspaper" in any statute requiring publication in a newspaper shall mean a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news of current events of general interest and sold to the public and to regular subscribers upon a bona fide subscription list. R.S.O. 1927, c. 1, s. 31, cls. (*t-v*).

"Now,"  
"next,"  
"heretofore,"  
"hereafter."

- (zb) "Now," "next," "heretofore" and "hereafter" shall be construed as having reference to the date of the coming into force of the Act. 1937, c. 33, s. 3 (2), *part*.

"Oath."

- (zc) "Oath" shall, in the case of persons allowed by law to affirm or declare instead of swearing, include affirmation and declaration; R.S.O. 1927, c. 1, s. 31, cl. (*x*).

"Peace Officer."

- (zd) "Peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, and justice of the peace, and also the superintendent, governor, gaoler, keeper, guard or any other officer or permanent employee of a gaol or reformatory and any police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process; 1935, c. 31, s. 2.

"Person."

- (ze) "Person" shall include any body corporate or politic, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

"Proclamation."

- (zf) "Proclamation" shall mean a proclamation under the Great Seal;

"Registrar."

- (zg) "Registrar" shall include a deputy registrar;

"Rules of court."

- (zh) "Rules of court" when used in relation to any court shall mean rules made by the authority having power to make rules or orders regulating the practice

and procedure of such court, or for the purpose of any Act directing or authorizing anything to be done by rules of court;

- (zi) "Security" shall mean sufficient security, and "Security." "sureties" shall mean sufficient sureties, and where these words are used, one person shall be sufficient therefor unless otherwise expressly required;
- (zj) "Shall" shall be construed as imperative; "Shall."
- (zk) "Supreme Court" shall mean Supreme Court of "Supreme Court." Ontario;
- (zl) "Swear" shall, in the case of persons for the time "Swear," being allowed by law to affirm or declare instead "sworn," of swearing, include affirm and declare; and "Sworn" shall have a corresponding meaning;
- (zm) "Upper Canada" shall mean all that part of Can- "Upper Canada" ada which formerly constituted the Province of Upper Canada;
- (zn) "Writing," "written," or any term of like import, "Writing," shall include words printed, painted, engraved, litho- "written," graphed, photographed, or represented or reproduced by any other mode in a visible form;
- (zo) "Year" shall mean a calendar year. R.S.O. 1927, "Year." c. 1, s. 31, cls. (y-ii).

#### SPECIAL INTERPRETATION CLAUSES.

**33.** The interpretation section of *The Judicature Act* shall extend to all Acts relating to legal matters. R.S.O. 1927, c. 1, s. 32. Interpretation section of Rev. Stat. c. 100, extension of application of.

**34.** The interpretation section of *The Municipal Act* shall extend to all Acts relating to municipal matters. R.S.O. 1927, c. 1, s. 33. Interpretation section of Rev. Stat. c. 266, application of.

## CHAPTER 2.

## The Statutes Act.

## Citation.

1. A Statute may be cited and referred to for all purposes either by its title or by its short title or by a reference to the number of the particular chapter in the Revised Statutes, or in the annual volume of Statutes printed by the King's Printer. R.S.O. 1927, c. 2, s. 1.

## Enacting clause.

2. The following words in a Statute shall indicate the authority by virtue of which it is passed: "His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows." R.S.O. 1927, c. 2, s. 2.

## Amendment or repeal during session in which passed.

3. Any Act of this Legislature may be amended, altered or repealed by any Act passed in the same session thereof. R.S.O. 1927, c. 2, s. 3.

## Endorsement on Acts.

4.—(1) The Clerk of the Assembly shall endorse on every Act, immediately after the title of such Act, the day, month and year when the same was by the Lieutenant-Governor assented to, or reserved, and the day, month and year of the prorogation of the session of the Legislature at which the Act was passed, and where the Act is reserved the Clerk shall also endorse thereon the day, month and year when the Lieutenant-Governor has signified, either by speech or message to the Assembly, or by proclamation, that the same was laid before the Governor-General in Council, and that the Governor-General was pleased to assent thereto.

## Commencement of Acts.

(2) Such endorsements shall be taken to be a part of the Act and unless otherwise provided therein the Act shall come into force and take effect on the sixtieth day after the prorogation of the session of the Legislature at which the Act was passed or on the sixtieth day after the day of signification, whichever is the later date. 1937, c. 73, s. 2.

## Proclamation bringing Act into force.

5. Where in any Act it is provided that the same is to come into force on a day to be named by the Lieutenant-Governor by his proclamation, or shall not come into force until a day to be so named, any such proclamation may apply to the whole or any part or parts, or portion or portions,

or section or sections of the Act, and proclamations may be issued as to any part, or parts, or portion or portions, or section or sections, of the Act at different periods. R.S.O. 1927, c. 2, s. 5.

6. The Statutes shall be printed, published and distributed by the King's Printer in such manner as may from time to time be prescribed by the Lieutenant-Governor in Council and approved by resolution of the Assembly. R.S.O. 1927, c. 2, s. 6. Printing and distribution.

7. The Clerk of the Assembly shall furnish the King's Printer with a certified copy of every Act of the Legislature as soon as the same has been assented to, or if the bill has been reserved, as soon as the assent thereto has been signified in accordance with the provisions of *The British North America Act*. R.S.O. 1927, c. 2, s. 7. Clerk to furnish copy of Act to King's Printer.

8. The King's Printer shall, before the opening of every session of the Assembly, make a report to the Lieutenant-Governor, which shall be laid before the Assembly within fifteen days after the opening of such session, showing the number of copies of the Acts of each session which have been printed and distributed by him since the last session, the departments, administrative bodies, officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the number of copies of the Acts of each session then remaining in his hands. R.S.O. 1927, c. 2, s. 8. Annual report of distribution.

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## SECTION II.

### TERRITORIAL DIVISION.

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#### CHAPTER 3.

##### The Territorial Division Act.

Existing organization continued.

1. The territorial division of Ontario into counties and districts shall continue as hereinafter set forth, and subject to the provisions of section 3, for municipal and judicial purposes such counties, and for judicial purposes such districts shall respectively be composed as follows:

Brant.

##### 1.—THE COUNTY OF BRANT

shall consist of the Townships of—

- |                        |               |
|------------------------|---------------|
| 1. Brantford,          | 4. Oakland,   |
| 2. Burford,            | 5. Onondaga,  |
| 3. Dumfries, South,    | 6. Tuscarora, |
| the City of Brantford, |               |
| and the Town of Paris. |               |

Bruce.

##### 2.—THE COUNTY OF BRUCE

shall consist of the Townships of—

- |               |                  |
|---------------|------------------|
| 1. Albemarle, | 9. Elderslie,    |
| 2. Amabel,    | 10. Greenock,    |
| 3. Arran,     | 11. Huron,       |
| 4. Brant,     | 12. Kincardine,  |
| 5. Bruce,     | 13. Kinloss,     |
| 6. Carrick,   | 14. Lindsay,     |
| 7. Culross,   | 15. St. Edmunds, |
| 8. Eastnor,   | 16. Saugeen,     |

the Towns of—

- |                 |               |
|-----------------|---------------|
| 1. Chesley,     | 4. Walkerton, |
| 2. Kincardine,  | 5. Wiarton,   |
| 3. Southampton, |               |



and the Villages of—

- |                 |                |
|-----------------|----------------|
| 1. Hepworth,    | 6. Port Elgin, |
| 2. Lion's Head, | 7. Ripley,     |
| 3. Lucknow,     | 8. Tara,       |
| 4. Mildmay,     | 9. Teeswater,  |
| 5. Paisley,     | 10. Tiverton.  |

The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

The Indian Reserve at Chiefs' Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River, shall, for judicial purposes, be deemed part of the Township of Amabel.

### 3.—THE COUNTY OF CARLETON

Carleton.

shall consist of the Townships of—

- |                  |                 |
|------------------|-----------------|
| 1. Fitzroy,      | 6. March,       |
| 2. Gloucester,   | 7. Marlborough, |
| 3. Goulburn,     | 8. Nepean,      |
| 4. Gower, North, | 9. Osgoode,     |
| 5. Huntley,      | 10. Torbolton,  |

the City of Ottawa,  
the Town of Eastview,  
and the Villages of—

- |              |                     |
|--------------|---------------------|
| 1. Richmond, | 2. Rockcliffe Park. |
|--------------|---------------------|

### 4.—THE COUNTY OF DUFFERIN

Dufferin.

shall consist of the Townships of—

- |                     |                |
|---------------------|----------------|
| 1. Amaranth,        | 4. Melancthon, |
| 2. Garafraxa, East, | 5. Mono,       |
| 3. Luther, East,    | 6. Mulmur,     |

the Town of Orangeville,  
and the Villages of—

- |                  |               |
|------------------|---------------|
| 1. Grand Valley, | 2. Shelburne. |
|------------------|---------------|

### 5.—THE COUNTY OF DUNDAS

Dundas.

shall consist of the Townships of—

- |              |                   |
|--------------|-------------------|
| 1. Matilda,  | 3. Williamsburgh, |
| 2. Mountain, | 4. Winchester,    |

and the Villages of—

- |                  |                |
|------------------|----------------|
| 1. Chesterville, | 3. Morrisburg, |
| 2. Iroquois,     | 4. Winchester. |

Durham.

## 6.—THE COUNTY OF DURHAM

shall consist of the Townships of—

- |                |                |
|----------------|----------------|
| 1. Cartwright, | 4. Darlington, |
| 2. Cavan,      | 5. Hope,       |
| 3. Clarke,     | 6. Manvers,    |

the Towns of—

- |                 |               |
|-----------------|---------------|
| 1. Bowmanville, | 2. Port Hope, |
|-----------------|---------------|

and the Villages of—

- |               |               |
|---------------|---------------|
| 1. Millbrook, | 2. Newcastle. |
|---------------|---------------|

Elgin.

## 7.—THE COUNTY OF ELGIN

shall consist of the Townships of—

- |                       |               |
|-----------------------|---------------|
| 1. Aldborough,        | 5. Malahide,  |
| 2. Bayham,            | 6. Southwold, |
| 3. Dorchester, South, | 7. Yarmouth,  |
| 4. Dunwich,           |               |

the City of St. Thomas,  
the Town of Aylmer,  
and the Villages of—

- |                  |                 |
|------------------|-----------------|
| 1. Dutton,       | 4. Springfield, |
| 2. Port Stanley, | 5. Vienna,      |
| 3. Rodney,       | 6. West Lorne.  |

Essex.

## 8.—THE COUNTY OF ESSEX

shall consist of the Townships of—

- |                      |                     |
|----------------------|---------------------|
| 1. Anderdon,         | 9. Pelee,           |
| 2. Colchester North, | 10. Rochester,      |
| 3. Colchester South, | 11. Sandwich East,  |
| 4. Gosfield North,   | 12. Sandwich South, |
| 5. Gosfield South,   | 13. Sandwich West,  |
| 6. Maidstone,        | 14. Tilbury North,  |
| 7. Malden,           | 15. Tilbury West,   |
| 8. Mersea,           |                     |

the City of Windsor,  
the Towns of—

- |                 |                |
|-----------------|----------------|
| 1. Amherstburg, | 6. Leamington, |
| 2. Essex,       | 7. Ojibway,    |
| 3. Harrow,      | 8. River Side, |
| 4. Kingsville,  | 9. Tecumseh,   |
| 5. La Salle,    |                |

and the Villages of—

- |                 |                     |
|-----------------|---------------------|
| 1. Belle River, | 2. St. Clair Beach, |
|-----------------|---------------------|
- except that the Township of Pelee shall continue to be separate, for municipal purposes, from the County of Essex.

Middle Sister Island, North Harbour Island, East Sister Island, Hen Island, Big Chicken Island, Little Chicken Island and Middle Island shall form part of the Township of Pelee.

Certain islands included in Township of Pelee.

## 9.—THE COUNTY OF FRONTENAC

Frontenac.

shall consist of the Townships of—

- |   |                             |
|---|-----------------------------|
| 1. Barrie,  | 9. Olden,                   |
| 2. Bedford,                                       | 10. Oso,                    |
| 3. Clarendon and Miller,                          | 11. Palmerston and Northand |
| 4. Hinchinbrooke,                                 | South Canonto,              |
| 5. Howe Island,                                   | 12. Pittsburg,              |
| 6. Kennebec,                                      | 13. Portland,               |
| 7. Kingston,                                      | 14. Storrington,            |
| 8. Loughborough,                                  | 15. Wolfe Island (including |
| Simcoe Island, Horse Shoe Island and Mud Island), |                             |
| the City of Kingston,                             |                             |
| and the Village of Portsmouth.                    |                             |

## 10.—THE COUNTY OF GLENGARRY

Glengarry.

shall consist of the Townships of—

- |                         |               |
|-------------------------|---------------|
| 1. Charlottenburgh,     | 3. Lancaster, |
| 2. Kenyon,              | 4. Lochiel,   |
| the Town of Alexandria, |               |
| and the Villages of—    |               |
| 1. Lancaster,           | 2. Maxville.  |

## 11.—THE COUNTY OF GRENVILLE

Grenville.

shall consist of the Townships of—

- |                       |                        |
|-----------------------|------------------------|
| 1. Augusta,           | 4. Oxford (on Rideau), |
| 2. Edwardsburgh,      | 5. Wolford,            |
| 3. Gower, South,      |                        |
| the Town of Prescott, |                        |
| and the Villages of—  |                        |
| 1. Cardinal,          | 3. Merrickville.       |
| 2. Kemptville.        |                        |

## 12.—THE COUNTY OF GREY

Grey.

shall consist of the Townships of—

- |                 |                    |
|-----------------|--------------------|
| 1. Artemesia,   | 9. Keppel,         |
| 2. Bentinck,    | 10. Normanby,      |
| 3. Collingwood, | 11. Osprey,        |
| 4. Derby,       | 12. Proton,        |
| 5. Egremont,    | 13. Saint Vincent, |
| 6. Euphrasia,   | 14. Sarawak,       |
| 7. Glenelg,     | 15. Sullivan,      |
| 8. Holland,     | 16. Sydenham,      |

the City of Owen Sound,  
the Towns of—

- |                      |                  |
|----------------------|------------------|
| 1. Durham,           | 3. Meaford,      |
| 2. Hanover,          | 4. Thornbury,    |
| and the Villages of— |                  |
| 1. Chatsworth,       | 4. Markdale,     |
| 2. Dundalk,          | 5. Neustadt,     |
| 3. Flesherton,       | 6. Shallow Lake. |

Haldimand.

## 13.—THE COUNTY OF HALDIMAND

shall consist of the Townships of—

- |                   |                |
|-------------------|----------------|
| 1. Canborough,    | 6. Oneida,     |
| 2. Cayuga, North, | 7. Rainham,    |
| 3. Cayuga, South, | 8. Seneca,     |
| 4. Dunn,          | 9. Sherbrooke, |
| 5. Moulton,       | 10. Walpole,   |

the Town of Dunnville,  
and the Villages of—

- |               |                 |
|---------------|-----------------|
| 1. Caledonia, | 3. Hagersville, |
| 2. Cayuga,    | 4. Jarvis.      |

Halton.

## 14.—THE COUNTY OF HALTON

shall consist of the Townships of—

- |                 |               |
|-----------------|---------------|
| 1. Esquesing,   | 3. Nelson,    |
| 2. Nassagaweya, | 4. Trafalgar, |

the Towns of—

- |                |              |
|----------------|--------------|
| 1. Burlington, | 3. Milton,   |
| 2. Georgetown, | 4. Oakville, |

and the Village of Acton.

Hastings.

## 15.—THE COUNTY OF HASTINGS

shall consist of the Townships of—

- |                                 |                             |
|---------------------------------|-----------------------------|
| 1. Bangor, Wicklow and McClure, | 10. Marmora and Lake,       |
| 2. Carlow,                      | 11. Mayo,                   |
| 3. Dungannon,                   | 12. Monteagle and Herschel, |
| 4. Elzevir and Grimsthorpe,     | 13. Rawdon,                 |
| 5. Faraday,                     | 14. Sidney,                 |
| 6. Hungerford,                  | 15. Thurlow,                |
| 7. Huntingdon,                  | 16. Tudor and Cashel,       |
| 8. Limerick,                    | 17. Tyendinaga,             |
| 9. Madoc,                       | 18. Wollaston,              |

the City of Belleville,  
the Towns of—

- |                      |             |
|----------------------|-------------|
| 1. Deseronto,        | 2. Trenton, |
| and the Villages of— |             |

- |               |              |
|---------------|--------------|
| 1. Bancroft,  | 5. Marmora,  |
| 2. Deloro,    | 6. Stirling, |
| 3. Frankford, | 7. Tweed.    |
| 4. Madoc,     |              |

## 16.—THE COUNTY OF HURON

Huron.

shall consist of the Townships of—

- |              |                     |
|--------------|---------------------|
| 1. Ashfield, | 9. Morris,          |
| 2. Colborne, | 10. Stanley,        |
| 3. Goderich, | 11. Stephen,        |
| 4. Grey,     | 12. Tuckersmith,    |
| 5. Hay,      | 13. Turnberry,      |
| 6. Howick,   | 14. Usborne,        |
| 7. Hullett,  | 15. Wawanosh, East, |
| 8. McKillop, | 16. Wawanosh, West, |

the Towns of—

- |              |              |
|--------------|--------------|
| 1. Clinton,  | 3. Seaforth, |
| 2. Goderich, | 4. Wingham,  |

and the Villages of—

- |              |             |
|--------------|-------------|
| 1. Blyth,    | 3. Exeter,  |
| 2. Brussels, | 4. Hensall. |

## 17.—THE COUNTY OF KENT

Kent.

shall consist of the Townships of—

- |             |                  |
|-------------|------------------|
| 1. Camden,  | 6. Orford,       |
| 2. Chatham, | 7. Raleigh,      |
| 3. Dover,   | 8. Romney,       |
| 4. Harwich, | 9. Tilbury East, |
| 5. Howard,  | 10. Zone,        |

the City of Chatham,

the Towns of—

- |              |                 |
|--------------|-----------------|
| 1. Blenheim, | 4. Ridgetown,   |
| 2. Bothwell, | 5. Tilbury,     |
| 3. Dresden,  | 6. Wallaceburg, |

and the Villages of—

- |                |                 |
|----------------|-----------------|
| 1. Erieau,     | 4. Thamesville, |
| 2. Erie Beach, | 5. Wheatley.    |
| 3. Highgate,   |                 |

## 18.—THE COUNTY OF LAMBTON

Lambton.

shall consist of the Townships of—

- |                 |                           |
|-----------------|---------------------------|
| 1. Bosanquet,   | 8. Sarnia,                |
| 2. Brooke,      | 9. Sombra, including Wal- |
| 3. Dawn,        | pole Island, St. Anne's   |
| 4. Enniskillen, | Island and the other      |
| 5. Euphemia,    | Islands at the mouth      |
| 6. Moore,       | of the River St. Clair,   |
| 7. Plympton,    | 10. Warwick,              |



the City of Sarnia,  
the Towns of—

- |                      |                  |
|----------------------|------------------|
| 1. Forest,           | 2. Petrolia,     |
| and the Villages of— |                  |
| 1. Alvinston,        | 5. Point Edward, |
| 2. Arkona,           | 6. Thedford,     |
| 3. Courtright,       | 7. Watford,      |
| 4. Oil Springs,      | 8. Wyoming.      |

Lanark.

## 19.—THE COUNTY OF LANARK

shall consist of the Townships of—

- |                            |                        |
|----------------------------|------------------------|
| 1. Bathurst,               | 7. Elmsley, North,     |
| 2. Beckwith,               | 8. Lanark,             |
| 3. Burgess, North,         | 9. Lavant,             |
| 4. Dalhousie and North     | 10. Montague,          |
| Sherbrooke,                | 11. Pakenham,          |
| 5. Darling,                | 12. Ramsay,            |
| 6. Drummond,               | 13. Sherbrooke, South, |
| the Towns of—              |                        |
| 1. Almonte,                | 3. Perth,              |
| 2. Carleton Place,         | 4. Smith's Falls,      |
| and the Village of Lanark. |                        |

Leeds.

## 20.—THE COUNTY OF LEEDS

shall consist of the Townships of—

- |  |                             |
|--|-----------------------------|
| 1. Bastard and Burgess                 | 7. Kitley,                  |
| South,                                 | 8. Leeds and Lansdowne,     |
| 2. Crosby, North,                      | Front,                      |
| 3. Crosby, South,                      | 9. Leeds and Lansdowne,     |
| 4. Elizabethtown,                      | Rear,                       |
| 5. Elmsley, South,                     | 10. Yonge, Front of,        |
| 6. Escott, Front of,                   | 11. Yonge and Escott, Rear, |
| the Towns of Brockville and Gananoque, |                             |
| and the Villages of—                   |                             |
| 1. Athens,                             | 3. Westport.                |
| 2. Newboro',                           |                             |

Lennox and  
Addington.

## 21.—THE COUNTY OF LENNOX AND ADDINGTON

shall consist of the Townships of—

- |                         |                            |
|-------------------------|----------------------------|
| 1. Adolphustown,        | 6. Fredericksburgh, North, |
| 2. Amherst Island,      | 7. Fredericksburgh, South, |
| 3. Camden,              | 8. Kaladar, Anglesea and   |
| 4. Denbigh, Abinger and | Effingham,                 |
| Ashby,                  | 9. Richmond,               |
| 5. Ernestown,           | 10. Sheffield,             |
| the Town of Napanee,    |                            |
| and the Villages of—    |                            |
| 1. Bath,                | 2. Newburgh.               |

## 22.—THE COUNTY OF LINCOLN

Lincoln.

shall consist of the Townships of—

- |               |                    |
|---------------|--------------------|
| 1. Caistor,   | 5. Grimsby, North, |
| 2. Clinton,   | 6. Grimsby, South, |
| 3. Gainsboro, | 7. Louth,          |
| 4. Grantham,  | 8. Niagara,        |

the City of St. Catharines,  
the Towns of—

- |               |             |
|---------------|-------------|
| 1. Grimsby,   | 3. Niagara, |
| 2. Merritton, |             |

and the Villages of—

- |                |                    |
|----------------|--------------------|
| 1. Beamsville, | 2. Port Dalhousie. |
|----------------|--------------------|

## 23.—THE COUNTY OF MIDDLESEX

Middlesex.

shall consist of the Townships of—

- |                       |                     |
|-----------------------|---------------------|
| 1. Adelaide,          | 9. McGillivray,     |
| 2. Biddulph,          | 10. Metcalfe,       |
| 3. Caradoc,           | 11. Mosa,           |
| 4. Delaware,          | 12. Nissouri, West, |
| 5. Dorchester, North, | 13. Westminster,    |
| 6. Ekfrid,            | 14. Williams, East, |
| 7. Lobo,              | 15. Williams, West, |
| 8. London,            |                     |

the City of London,  
the Towns of—

- |              |               |
|--------------|---------------|
| 1. Parkhill, | 2. Strathroy, |
|--------------|---------------|

and the Villages of—

- |                 |                |
|-----------------|----------------|
| 1. Ailsa Craig, | 4. Newbury,    |
| 2. Glencoe,     | 5. Wardsville. |
| 3. Lucan,       |                |

## 24.—THE COUNTY OF NORFOLK

Norfolk.

shall consist of the Townships of—

- |                    |                       |
|--------------------|-----------------------|
| 1. Charlotteville, | 5. Walsingham, North, |
| 2. Houghton,       | 6. Walsingham, South, |
| 3. Middleton,      | 7. Windham,           |
| 4. Townsend,       | 8. Woodhouse,         |

the Town of Simcoe,  
and the Villages of—

- |                |                |
|----------------|----------------|
| 1. Delhi,      | 3. Port Rowan, |
| 2. Port Dover, | 4. Waterford.  |

Northumber-  
land.

## 25.—THE COUNTY OF NORTHUMBERLAND

shall consist of the Townships of—

- |               |                     |
|---------------|---------------------|
| 1. Alnwick,   | 6. Monaghan, South, |
| 2. Brighton,  | 7. Murray,          |
| 3. Cramahe,   | 8. Percy,           |
| 4. Haldimand, | 9. Seymour,         |
| 5. Hamilton,  |                     |

the Towns of—

- |                  |             |
|------------------|-------------|
| 1. Campbellford, | 2. Cobourg, |
|------------------|-------------|

and the Villages of—

- |              |              |
|--------------|--------------|
| 1. Brighton, | 3. Hastings. |
| 2. Colborne, |              |

Ontario.

## 26.—THE COUNTY OF ONTARIO

shall consist of the Townships of—

- |               |   |
|---------------|---|
| 1. Brock,     | 7. Scugog,  |
| 2. Mara,      | 8. Thorah (including Canise<br>or Thorah Island), |
| 3. Pickering, | 9. Uxbridge,                                      |
| 4. Rama,      | 10. Whitby, East,                                 |
| 5. Reach,     | 11. Whitby,                                       |
| 6. Scott,     |   |

the City of Oshawa,

the Towns of—

- |                      |                |
|----------------------|----------------|
| 1. Uxbridge,         | 2. Whitby,     |
| and the Villages of— |                |
| 1. Beaverton,        | 3. Port Perry. |
| 2. Cannington,       |                |

Oxford.

## 27.—THE COUNTY OF OXFORD

shall consist of the Townships of—

- |                    |                   |
|--------------------|-------------------|
| 1. Blandford,      | 7. Oxford, East,  |
| 2. Blenheim,       | 8. Oxford, North, |
| 3. Dereham,        | 9. Oxford, West,  |
| 4. Nissouri, East, | 10. Zorra, East,  |
| 5. Norwich, North, | 11. Zorra, West,  |
| 6. Norwich, South, |                   |

the City of Woodstock,

the Towns of—

- |                      |                 |
|----------------------|-----------------|
| 1. Ingersoll,        | 2. Tillsonburg, |
| and the Villages of— |                 |
| 1. Embro,            | 3. Tavistock.   |
| 2. Norwich,          |                 |

## 28.—THE COUNTY OF PEEL

Peel.

shall consist of the Townships of—

- |                  |                  |
|------------------|------------------|
| 1. Albion,       | 4. Toronto,      |
| 2. Caledon,      | 5. Toronto Gore, |
| 3. Chinguacousy, |                  |

the Town of Brampton,  
and the Villages of—

- |                 |                  |
|-----------------|------------------|
| 1. Bolton,      | 3. Streetsville. |
| 2. Port Credit, |                  |

## 29.—THE COUNTY OF PERTH

Perth.

shall consist of the Townships of—

- |  |                 |
|--|-----------------|
| 1. Blanshard,                                | 6. Elma,        |
| 2. Downie (including the<br>Gore of Downie), | 7. Fullarton,   |
| 3. Easthope, North,                          | 8. Hibbert,     |
| 4. Easthope, South,                          | 9. Logan.       |
| 5. Ellice,                                   | 10. Mornington, |
|  | 11. Wallace.    |

the City of Stratford,  
the Towns of—

- |                               |                |
|-------------------------------|----------------|
| 1. Listowel,                  | 3. St. Mary's, |
| 2. Mitchell,                  |                |
| and the Village of Milverton. |                |

## 30.—THE COUNTY OF PETERBOROUGH

Peter-  
borough.

shall consist of the Townships of—

- |                             |                          |
|-----------------------------|--------------------------|
| 1. Asphodel,                | 7. Ennismore,            |
| 2. Belmont and Methuen,     | 8. Galway and Cavendish, |
| 3. Burleigh and Anstruther, | 9. Harvey,               |
| 4. Chandos,                 | 10. Monaghan, North,     |
| 5. Douro,                   | 11. Otonabee,            |
| 6. Dummer,                  | 12. Smith,               |

the City of Peterborough,  
and the Villages of—

- |               |             |
|---------------|-------------|
| 1. Havelock,  | 3. Norwood. |
| 2. Lakefield, |             |

## 31.—THE COUNTY OF PRESCOTT

Prescott.

shall consist of the Townships of—

- |                      |                        |
|----------------------|------------------------|
| 1. Alfred,           | 5. Longueuil,          |
| 2. Caledonia,        | 6. Plantagenet, North, |
| 3. Hawkesbury, East, | 7. Plantagenet, South, |
| 4. Hawkesbury, West, |                        |

the Towns of—

- |                               |                   |
|-------------------------------|-------------------|
| 1. Hawkesbury,                | 2. Vankleek Hill, |
| and the Village of L'Orignal. |                   |

## 32.—THE COUNTY OF PRINCE EDWARD

Prince  
Edward.

shall consist of the Townships of—

- |                  |                       |
|------------------|-----------------------|
| 1. Ameliasburgh, | 5. Marysburgh, North, |
| 2. Athol,        | 6. Marysburgh, South, |
| 3. Hallowell,    | 7. Sophiasburgh,      |
| 4. Hillier,      |                       |

the Town of Picton,  
and the Villages of—

1. Bloomfield,
2. Wellington.

Renfrew.

### 33.—THE COUNTY OF RENFREW

shall consist of the Townships of—

- |                               |  |
|-------------------------------|--|
| 1. Admaston,                  | 15. Pembroke,                            |
| 2. Algona, North,             | 16. Petawawa,                            |
| 3. Algona, South,             | 17. Radcliffe,                           |
| 4. Alice and Fraser,          | 18. Raglan,                              |
| 5. Bagot and Blithfield,      | 19. Rolph, Buchanan, Wylie<br>and McKay, |
| 6. Bromley,                   | 20. Ross,                                |
| 7. Brougham,                  | 21. Sebastopol,                          |
| 8. Brudenell and Lyndoch,     | 22. Sherwood, Jones and<br>Burns,        |
| 9. Grattan,                   | 23. Stafford,                            |
| 10. Griffith and Matawatchan, | 24. Westmeath,                           |
| 11. Hagarty and Richards,     | 25. Wilberforce,                         |
| 12. Head, Clara and Maria,    |  |
| 13. Horton,                   |  |
| 14. McNab,                    |  |

the Towns of—

- |              |             |
|--------------|-------------|
| 1. Arnprior, | 3. Renfrew, |
| 2. Pembroke, |             |

and the Villages of—

- |                 |                      |
|-----------------|----------------------|
| 1. Barry's Bay, | 4. Eganville,        |
| 2. Braeside,    | 5. Killaloe Station. |
| 3. Cobden,      |                      |

Russell.

### 34.—THE COUNTY OF RUSSELL

shall consist of the Townships of—

- |               |                |
|---------------|----------------|
| 1. Cambridge, | 3. Cumberland, |
| 2. Clarence,  | 4. Russell,    |

the Town of Rockland,  
and the Village of Casselman.

Simcoe.

### 35.—THE COUNTY OF SIMCOE

shall consist of the Townships of—

- |                       |                 |
|-----------------------|-----------------|
| 1. Adjala,            | 9. Orillia,     |
| 2. Essa,              | 10. Oro,        |
| 3. Flos,              | 11. Sunnidale,  |
| 4. Gwillimbury, West, | 12. Tay,        |
| 5. Innisfil,          | 13. Tecumseth,  |
| 6. Matchedash,        | 14. Tiny,       |
| 7. Medonte,           | 15. Tosorontio, |
| 8. Nottawasaga,       | 16. Vespra,     |



the Towns of—

- |                 |                     |
|-----------------|---------------------|
| 1. Alliston,    | 5. Orillia,         |
| 2. Barrie,      | 6. Penetanguishene, |
| 3. Collingwood, | 7. Stayner,         |
| 4. Midland,     |                     |

and the Villages of—

- |               |                      |
|---------------|----------------------|
| 1. Beeton,    | 5. Port McNicoll,    |
| 2. Bradford,  | 6. Tottenham,        |
| 3. Coldwater, | 7. Victoria Harbour. |
| 4. Creemore,  |                      |

### 36.—THE COUNTY OF STORMONT

Stormont.

shall consist of the Townships of—

- |              |                |
|--------------|----------------|
| 1. Cornwall, | 3. Osnabruck,  |
| 2. Finch,    | 4. Roxborough, |

the Town of Cornwall,  
and the Village of Finch.

### 37.—THE COUNTY OF VICTORIA

Victoria.

shall consist of the Townships of—

- |             |                            |
|-------------|----------------------------|
| 1. Bexley,  | 7. Laxton, Digby and Long- |
| 2. Carden,  | ford,                      |
| 3. Dalton,  | 8. Mariposa,               |
| 4. Eldon,   | 9. Ops,                    |
| 5. Emily,   | 10. Somerville,            |
| 6. Fenelon, | 11. Verulam,               |

the Town of Lindsay,  
and the Villages of—

- |                   |                    |
|-------------------|--------------------|
| 1. Bobcaygeon,    | 4. Sturgeon Point, |
| 2. Fenelon Falls, | 5. Woodville.      |
| 3. Omemee,        |                    |

### 38.—THE COUNTY OF WATERLOO

Waterloo.

shall consist of the Townships of—

- |                     |              |
|---------------------|--------------|
| 1. Dumfries, North, | 4. Wilmot,   |
| 2. Waterloo,        | 5. Woolwich, |
| 3. Wellesley,       |              |

the Cities of—

- |          |               |
|----------|---------------|
| 1. Galt, | 2. Kitchener, |
|----------|---------------|

the Towns of—

- |              |              |
|--------------|--------------|
| 1. Elmira,   | 3. Preston,  |
| 2. Hespeler, | 4. Waterloo, |

and the Villages of—

- |         |                 |
|---------|-----------------|
| 1. Ayr, | 2. New Hamburg. |
|---------|-----------------|

Welland.

## 39.—THE COUNTY OF WELLAND

shall consist of the Townships of—

- |                 |                |
|-----------------|----------------|
| 1. Bertie,      | 5. Stamford,   |
| 2. Crowland,    | 6. Thorold,    |
| 3. Humberstone, | 7. Wainfleet,  |
| 4. Pelham,      | 8. Willoughby, |

the Cities of—

- |                   |             |
|-------------------|-------------|
| 1. Niagara Falls, | 2. Welland, |
|-------------------|-------------|

the Towns of—

- |                   |             |
|-------------------|-------------|
| 1. Fort Erie,     | 3. Thorold, |
| 2. Port Colborne, |             |

and the Villages of—

- |                   |                 |
|-------------------|-----------------|
| 1. Chippewa,      | 3. Fonthill.    |
| 2. Crystal Beach, | 4. Humberstone. |

Wellington.

## 40.—THE COUNTY OF WELLINGTON

shall consist of the Townships of—

- |                     |                 |
|---------------------|-----------------|
| 1. Arthur,          | 7. Maryborough, |
| 2. Eramosa,         | 8. Minto,       |
| 3. Erin,            | 9. Nichol,      |
| 4. Garafraxa, West, | 10. Peel,       |
| 5. Guelph,          | 11. Pilkington, |
| 6. Luther, West,    | 12. Puslinch,   |

the City of Guelph,  
the Towns of—

- |                  |                |
|------------------|----------------|
| 1. Harriston,    | 3. Palmerston, |
| 2. Mount Forest, |                |

and the Villages of—

- |              |            |
|--------------|------------|
| 1. Arthur,   | 4. Elora,  |
| 2. Clifford, | 5. Erin,   |
| 3. Drayton,  | 6. Fergus. |

Wentworth.

## 41.—THE COUNTY OF WENTWORTH

shall consist of the Townships of—

- |              |                       |
|--------------|-----------------------|
| 1. Ancaster, | 5. Flamborough, East, |
| 2. Barton,   | 6. Flamborough, West, |
| 3. Beverly,  | 7. Glanford,          |
| 4. Binbrook, | 8. Saltfleet,         |

the City of Hamilton,  
the Town of Dundas,  
and the Villages of

- |                  |               |
|------------------|---------------|
| 1. Stoney Creek, | 2. Waterdown. |
|------------------|---------------|

York.

## 42.—THE COUNTY OF YORK

shall consist of the Townships of—

- |               |                        |
|---------------|------------------------|
| 1. Etobicoke, | 3. Gwillimbury, East,  |
| 2. Georgina,  | 4. Gwillimbury, North, |

- |                 |                  |
|-----------------|------------------|
| 5. King,        | 9. Whitchurch,   |
| 6. Markham,     | 10. York,        |
| 7. Scarborough, | 11. York, East,  |
| 8. Vaughan,     | 12. York, North, |

the City of Toronto,  
the Towns of—

- |             |                 |
|-------------|-----------------|
| 1. Aurora,  | 4. Newmarket,   |
| 2. Leaside, | 5. New Toronto, |
| 3. Mimico,  | 6. Weston,      |

and the Villages of—

- |                   |                 |
|-------------------|-----------------|
| 1. Forest Hill,   | 5. Stouffville, |
| 2. Long Branch,   | 6. Sutton,      |
| 3. Markham,       | 7. Swansea,     |
| 4. Richmond Hill, | 8. Woodbridge.  |

#### 43.—THE PROVISIONAL COUNTY OF HALIBURTON Haliburton.

shall consist of the Townships of—

- |  |  |
|--|--|
| 1. Anson and Hindon,   | 6. Minden,   |
| 2. Cardiff,  | 7. Monmouth,   |
| 3. Dysart, Bruton, Clyde,<br>Dudley, Eyre, Guilford,<br>Harburn, Harcourt and<br>Havelock. | 8. Sherborne, McClintock,<br>Livingstone, Lawrence<br>and Nightingale, |
| 4. Glamorgan,  | 9. Snowdon,  |
| 5. Lutterworth,  | 10. Stanhope,  |

but for judicial purposes not provided for by *The Haliburton* Rev. Stat.,  
c. 4.  
*Act*, shall continue to be united to and form part of the County  
of Victoria.

#### 44.—THE TERRITORIAL DISTRICT OF ALGOMA Algoma.

shall consist of the Townships of—

- |                |                        |
|----------------|------------------------|
| 1. A,          | 14. B,                 |
| 2. Abbott,     | 15. Bayfield,          |
| 3. Aberdeen,   | 16. Beaton,            |
| 4. Abigo,      | 17. Bourinot,          |
| 5. Acton,      | 18. Breckenridge,      |
| 6. Alderson,   | 19. Bridgland,         |
| 7. Allenby,    | 20. Bright,            |
| 8. Amik,       | 21. Bright Additional, |
| 9. Amundsen,   | 22. Buchan,            |
| 10. Anderson,  | 23. Byng,              |
| 11. Archibald, | 24. C,                 |
| 12. Awenge,    | 25. Carney,            |
| 13. Aweres,    | 26. Champlain,         |

- |                         |                  |
|-------------------------|------------------|
| 27. Chelsea,            | 76. Hilton,      |
| 28. Chesley,            | 77. Hodgins,     |
| 29. Chesley Additional, | 78. Home,        |
| 30. Clouston,           | 79. Hook,        |
| 31. Cobden,             | 80. I,           |
| 32. Coderre,            | 81. Irving,      |
| 33. Concobar,           | 82. J,           |
| 34. Conking,            | 83. Jarvis,      |
| 35. Cromlech.           | 84. Jocelyn,     |
| 36. Curtis,             | 85. Johnson,     |
| 37. D,                  | 86. K,           |
| 38. Davin,              | 87. Kapuskasing, |
| 39. Day,                | 88. Kars,        |
| 40. Dennis,             | 89. Kehoe,       |
| 41. Deroche,            | 90. Kildare,     |
| 42. Derry,              | 91. Kincaid,     |
| 43. Doherty,            | 92. Kirkwall,    |
| 44. Dowsley,            | 93. Kirkwood,    |
| 45. Duncan,             | 94. Korah,       |
| 46. E,                  | 95. L,           |
| 47. Ebbs,               | 96. Laird,       |
| 48. Ericson,            | 97. Larkin,      |
| 49. Ermine,             | 98. Lascelles,   |
| 50. Esten,              | 99. Lefroy,      |
| 51. F,                  | 100. Legge,      |
| 52. Farquhar,           | 101. Lerwick,    |
| 53. Fenwick,            | 102. Lessard,    |
| 54. Fisher,             | 103. Lewis,      |
| 55. Flanders,           | 104. Ley,        |
| 56. Foch,               | 105. Lipton,     |
| 57. Frances,            | 106. Lizar,      |
| 58. Franz,              | 107. Long,       |
| 59. G,                  | 108. Loughheed,  |
| 60. Galbraith,          | 109. M,          |
| 61. Gaudette,           | 110. Macdonald,  |
| 62. Gillmor,            | 111. Mack,       |
| 63. Gladstone,          | 112. Marjorie,   |
| 64. Glasgow,            | 113. Makawa,     |
| 65. Gould,              | 114. Marne,      |
| 66. Gourlay,            | 115. Martin,     |
| 67. Grasett,            | 116. Maude,      |
| 68. H,                  | 117. McFarlan,   |
| 69. Haig,               | 118. McGiverin,  |
| 70. Haughton,           | 119. McMahon,    |
| 71. Havilland,          | 120. Meath,      |
| 72. Hawkins,            | 121. Meredith,   |
| 73. Hayward,            | 122. Mildred,    |
| 74. Herrick,            | 123. Minnipuka,  |
| 75. Hiawatha,           | 124. Mons,       |

- |                          |                    |
|--------------------------|--------------------|
| 125. Montgomery,         | 174. Tennyson,     |
| 126. Moorehouse,         | 175. Thessalon,    |
| 127. Morin,              | 176. Thompson,     |
| 128. Mosambik,           | 177. Tilley,       |
| 129. N,                  | 178. Tupper,       |
| 130. Nagagami,           | 179. U,            |
| 131. Nameigos,           | 180. Usnac,        |
| 132. Nebotik,            | 181. V,            |
| 133. O,                  | 182. Van Koughnet, |
| 134. Opazatika,          | 183. Victoria,     |
| 135. Oscar,              | 184. W,            |
| 136. Otter,              | 185. Walls,        |
| 137. P,                  | 186. Wells,        |
| 138. Palmer,             | 187. Whitman,      |
| 139. Parke,              | 188. Wicksteed,    |
| 140. Parkinson,          | 189. Winget,       |
| 141. Patton,             | 190. Woolrich,     |
| 142. Pelletier,          | 191. X,            |
| 143. Pennefather,        | 192. Y,            |
| 144. Plummer,            | 193. Z,            |
| 145. Plummer Additional, | 194. Tp. 1A,       |
| 146. Prince,             | 195. Tp. 1B,       |
| 147. Proctor,            | 196. Tp. 1C,       |
| 148. Puskuta,            | 197. Tp. 1D,       |
| 149. Q,                  | 198. Tp. 1E,       |
| 150. R,                  | 199. Tp. 1F,       |
| 151. Radisson,           | 200. Tp. 2A,       |
| 152. Roche,              | 201. Tp. 2B,       |
| 153. Rose,               | 202. Tp. 2C,       |
| 154. Ryan,               | 203. Tp. 2D,       |
| 155. S,                  | 204. Tp. 2E,       |
| 156. St. Joseph,         | 205. Tp. 2F,       |
| 157. St. Julien,         | 206. Tp. 3A,       |
| 158. Scarfe,             | 207. Tp. 3B,       |
| 159. Scholfield,         | 208. Tp. 3C,       |
| 160. Shanly,             | 209. Tp. 3D,       |
| 161. Shedden,            | 210. Tp. 3E,       |
| 162. Shields,            | 211. Tp. 3F,       |
| 163. Simpson,            | 212. Tp. 3G,       |
| 164. Spragge,            | 213. Tp. 3H,       |
| 165. Stefansson,         | 214. Tp. 4A,       |
| 166. Strickland,         | 215. Tp. 4B,       |
| 167. Striker,            | 216. Tp. 4C,       |
| 168. T,                  | 217. Tp. 4D,       |
| 169. Talbott,            | 218. Tp. 4E,       |
| 170. Tarbutt,            | 219. Tp. 4F,       |
| 171. Tarbutt Additional, | 220. Tp. 4G,       |
| 172. Tarentorus,         | 221. Tp. 4H,       |
| 173. Templeton,          | 222. Tp. 5A,       |



- |               |                       |
|---------------|-----------------------|
| 223. Tp. 5B,  | 272. Tp. 129,         |
| 224. Tp. 5C,  | 273. Tp. 130,         |
| 225. Tp. 5D,  | 274. Tp. 131,         |
| 226. Tp. 5E,  | 275. Tp. 132,         |
| 227. Tp. 5F,  | 276. Tp. 136,         |
| 228. Tp. 5G,  | 277. Tp. 137,         |
| 229. Tp. 5H,  | 278. Tp. 138,         |
| 230. Tp. 6A,  | 279. Tp. 139,         |
| 231. Tp. 6B,  | 280. Tp. 143,         |
| 232. Tp. 6C,  | 281. Tp. 144,         |
| 233. Tp. 6D,  | 282. Tp. 145,         |
| 234. Tp. 6E,  | 283. Tp. 149,         |
| 235. Tp. 6F,  | 284. Tp. 150,         |
| 236. Tp. 6G,  | 285. Tp. 151,         |
| 237. Tp. 6H,  | 286. Tp. 155,         |
| 238. Tp. 7A,  | 287. Tp. 156,         |
| 239. Tp. 7B,  | 288. Tp. 157,         |
| 240. Tp. 7C,  | 289. Tp. 161,         |
| 241. Tp. 7D,  | 290. Tp. 162,         |
| 242. Tp. 7E,  | 291. Tp. 163,         |
| 243. Tp. 7F,  | 292. Tp. 167,         |
| 244. Tp. 7G,  | 293. Tp. 168,         |
| 245. Tp. 7H,  | 294. Tp. 169,         |
| 246. Tp. 7Z,  | 295. Tp. 175,         |
| 247. Tp. 43,  | 296. Tp. 176,         |
| 248. Tp. 45,  | 297. Tp. 182,         |
| 249. Tp. 46,  | 298. Tp. 188,         |
| 250. Tp. 47,  | 299. Tp. 195,         |
| 251. Tp. 48,  | 300. Tp. 196,         |
| 252. Tp. 49,  | 301. Tp. 201,         |
| 253. Tp. 51,  | 302. Tp. 202,         |
| 254. Tp. 52,  | 303. Tp. 22 Range 10, |
| 255. Tp. 53,  | 304. Tp. 22 Range 11, |
| 256. Tp. 54,  | 305. Tp. 22 Range 12, |
| 257. Tp. 55,  | 306. Tp. 22 Range 13, |
| 258. Tp. 56,  | 307. Tp. 22 Range 14, |
| 259. Tp. 57,  | 308. Tp. 23 Range 10, |
| 260. Tp. 59,  | 309. Tp. 23 Range 11, |
| 261. Tp. 60,  | 310. Tp. 23 Range 12, |
| 262. Tp. 61,  | 311. Tp. 23 Range 13, |
| 263. Tp. 62,  | 312. Tp. 23 Range 14, |
| 264. Tp. 63,  | 313. Tp. 24 Range 11, |
| 265. Tp. 64,  | 314. Tp. 24 Range 12, |
| 266. Tp. 65,  | 315. Tp. 24 Range 13, |
| 267. Tp. 66,  | 316. Tp. 24 Range 14, |
| 268. Tp. 67,  | 317. Tp. 24 Range 15, |
| 269. Tp. 123, | 318. Tp. 24 Range 16, |
| 270. Tp. 124, | 319. Tp. 24 Range 17, |
| 271. Tp. 125, | 320. Tp. 24 Range 18, |

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| 321. Tp. 24 Range 19, | 370. Tp. 27 Range 26, |
| 322. Tp. 24 Range 20, | 371. Tp. 28 Range 13, |
| 323. Tp. 24 Range 21, | 372. Tp. 28 Range 14, |
| 324. Tp. 24 Range 22, | 373. Tp. 28 Range 15, |
| 325. Tp. 24 Range 23, | 374. Tp. 28 Range 16, |
| 326. Tp. 24 Range 24, | 375. Tp. 28 Range 17, |
| 327. Tp. 25 Range 12, | 376. Tp. 28 Range 18, |
| 328. Tp. 25 Range 13, | 377. Tp. 28 Range 19, |
| 329. Tp. 25 Range 14, | 378. Tp. 28 Range 20, |
| 330. Tp. 25 Range 15, | 379. Tp. 28 Range 21, |
| 331. Tp. 25 Range 16, | 380. Tp. 28 Range 22, |
| 332. Tp. 25 Range 17, | 381. Tp. 28 Range 23, |
| 333. Tp. 25 Range 18, | 382. Tp. 28 Range 24, |
| 334. Tp. 25 Range 19, | 383. Tp. 28 Range 25, |
| 335. Tp. 25 Range 20, | 384. Tp. 28 Range 26, |
| 336. Tp. 25 Range 21, | 385. Tp. 28 Range 27, |
| 337. Tp. 25 Range 22, | 386. Tp. 29 Range 14, |
| 338. Tp. 25 Range 23, | 387. Tp. 29 Range 15, |
| 339. Tp. 25 Range 24, | 388. Tp. 29 Range 16, |
| 340. Tp. 25 Range 25, | 389. Tp. 29 Range 17, |
| 341. Tp. 25 Range 26, | 390. Tp. 29 Range 18, |
| 342. Tp. 26 Range 12, | 391. Tp. 29 Range 19, |
| 343. Tp. 26 Range 13, | 392. Tp. 29 Range 20, |
| 344. Tp. 26 Range 14, | 393. Tp. 29 Range 21, |
| 345. Tp. 26 Range 15, | 394. Tp. 29 Range 22, |
| 346. Tp. 26 Range 16, | 395. Tp. 29 Range 23, |
| 347. Tp. 26 Range 17, | 396. Tp. 29 Range 24, |
| 348. Tp. 26 Range 18, | 397. Tp. 29 Range 25, |
| 349. Tp. 26 Range 19, | 398. Tp. 29 Range 26, |
| 350. Tp. 26 Range 20, | 399. Tp. 29 Range 27, |
| 351. Tp. 26 Range 21, | 400. Tp. 30 Range 17, |
| 352. Tp. 26 Range 22, | 401. Tp. 30 Range 18, |
| 353. Tp. 26 Range 23, | 402. Tp. 30 Range 19, |
| 354. Tp. 26 Range 24, | 403. Tp. 30 Range 20, |
| 355. Tp. 26 Range 25, | 404. Tp. 30 Range 21, |
| 356. Tp. 26 Range 26, | 405. Tp. 30 Range 22, |
| 357. Tp. 27 Range 12, | 406. Tp. 30 Range 23, |
| 358. Tp. 27 Range 13, | 407. Tp. 30 Range 24, |
| 359. Tp. 27 Range 14, | 408. Tp. 30 Range 25, |
| 360. Tp. 27 Range 16, | 409. Tp. 30 Range 26, |
| 361. Tp. 27 Range 17, | 410. Tp. 30 Range 27, |
| 362. Tp. 27 Range 18, | 411. Tp. 31 Range 18, |
| 363. Tp. 27 Range 19, | 412. Tp. 31 Range 19, |
| 364. Tp. 27 Range 20, | 413. Tp. 31 Range 20, |
| 365. Tp. 27 Range 21, | 414. Tp. 31 Range 21, |
| 366. Tp. 27 Range 22, | 415. Tp. 31 Range 22, |
| 367. Tp. 27 Range 23, | 416. Tp. 31 Range 23, |
| 368. Tp. 27 Range 24, | 417. Tp. 31 Range 24, |
| 369. Tp. 27 Range 25, | 418. Tp. 31 Range 25, |

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|-----------------------|-----------------------|
| 419. Tp. 31 Range 26, | 426. Tp. 32 Range 28, |
| 420. Tp. 31 Range 27, | 427. Tp. 33 Range 23, |
| 421. Tp. 32 Range 23, | 428. Tp. 33 Range 24, |
| 422. Tp. 32 Range 24, | 429. Tp. 33 Range 25, |
| 423. Tp. 32 Range 25, | 430. Tp. 33 Range 26, |
| 424. Tp. 32 Range 26, | 431. Tp. 33 Range 27, |
| 425. Tp. 32 Range 27, | 432. Tp. 33 Range 28, |

the City of Sault Ste. Marie,  
and the Towns of—

- |                                  |                 |
|----------------------------------|-----------------|
| 1. Blind River,                  | 3. Nesterville, |
| 2. Bruce Mines,                  | 4. Thessalon,   |
| and the Village of Hilton Beach, |                 |

together with all the remaining territory included within the following limits,—

Commencing at a point on the north shore of Lake Huron at the southwest angle of the Township of Harrow; thence north along the west boundary of the Township of Harrow to the southeast angle of the Township of Salter; thence westerly, southerly and westerly along the southerly boundary of the Township of Salter to the southwest angle of the Township; thence north along the west boundary thereof to the northwest angle of said Township; thence east along the north boundary 6 miles to the northeast angle thereof; thence north along the west boundaries of the Township of Gough and Townships numbered 118, 119 and 120 a distance of 24 miles more or less to the northwest angle of Township No. 120; thence east along the north boundary of Township No. 120, 6 miles more or less to the southwest angle of Township No. 114; thence north along the west boundaries of Townships Nos. 114 and 115, and the Townships of Gilbert and Dennie, 24 miles more or less to the northwest angle of the Township of Dennie; thence west along the north boundaries of Townships "D," "H," "L," "P," "T," 30 miles more or less to the 12th mile post on O.L. Surveyor Niven's meridian line; thence north astronomically along the west boundaries of the Townships of Comox, Fulton and Iris to the northwest angle of the Township of Iris; thence west astronomically along the north boundaries of Townships 7 Z, 7 A, 7 B, 7 C, 7 D, 7 E, 7 F, 7 G, 7 H and continuing west to O.L. Surveyor T. B. Speight's meridian line of 1898; thence north astronomically along the east boundaries of Township 24 Range 15, Township 24 Range 16, Township 24 Range 17, Township 24 Range 18, Township 24 Range 19, Township 24 Range 20, Township 24 Range 21 and Township 24 Range 22 to the northeast angle of Township 24 Range 22; thence west along the north boundary of the said last mentioned Township to the southwest angle of Township 23 Range 23; thence north along the west boundaries of Township 23 Range 23, Townships

numbered 40, 42, 44, and the Townships of Stover and Rennie to the northwest angle of the last mentioned Township; thence east along the north boundaries of the Townships of Rennie, Leeson, Baltic, Barclay, Calais, Lloyd, Bonar, Sherlock and Shenango to the southwest angle of the Township of Ossin; thence north along the west boundaries of the Townships of Ossin, Wadsworth, Lisgar, Seaton, Fenton, Staples to the northwest angle of the Township of Staples; thence west along the north boundaries of the Townships of Shanly, Bourinot, Opazatika, Abbott, Doherty and Pelletier to the southeast angle of the Township of Scholfield; thence north along the east boundaries of the Townships of Scholfield and Ebbs to the northeast angle of the Township of Ebbs; thence west along the north boundaries of the Townships of Ebbs, Templeton, McFarlan and Dowsley to the northwest angle of the Township of Dowsley; thence north along the west boundaries of the Townships of Langemarck and Storey to the northwest angle of the Township of Storey; thence west along the south boundaries of the Townships of McMillan, McCoig, Kohler and Clavet to the southwest angle of the Township of Clavet being a point on Niven's meridian line of 1907 forming the westerly boundary of the district of Algoma; thence due south along said meridian and its production southerly to the International Boundary Line in Lake Superior between the United States of America and the Dominion of Canada; thence southeasterly and easterly following said International Boundary Line through Lake Superior and the River St. Mary and Lake Huron to a point in Lake Huron between Drummond Island and Cockburn Island; thence easterly along the northerly boundary of the Territorial District of Manitoulin to the southwest angle of the Township of Harrow, the place of beginning.

The Territorial District of Algoma shall form the Provisional Judicial District of Algoma.

Provisional  
Judicial  
District of  
Algoma.

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the municipalities of Johnson, Tarbutt and Tarbutt Additional and the municipality of Plummer Additional.

Boundary  
line between  
municipali-  
ties of  
Johnson,  
etc., and  
Plummer  
defined.

45.—THE TERRITORIAL DISTRICT OF COCHRANE

Cochrane.

shall consist of the Townships of—

- |                |               |
|----------------|---------------|
| 1. Abbotsford, | 7. Aitken,    |
| 2. Acres,      | 8. Alexandra, |
| 3. Adair,      | 9. Amery,     |
| 4. Adanac,     | 10. Ardagh,   |
| 5. Agassiz,    | 11. Aubin,    |
| 6. Agate,      | 12. Auden,    |

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|------------------|-------------------|
| 13. Aurora,      | 62. Casselman,    |
| 14. Avon,        | 63. Challies,     |
| 15. Bannerman,   | 64. Chipman,      |
| 16. Barker,      | 65. Clavet,       |
| 17. Barlow,      | 66. Clay,         |
| 18. Barnett,     | 67. Clergue,      |
| 19. Beardmore,   | 68. Clive,        |
| 20. Beatty,      | 69. Clute,        |
| 21. Beck,        | 70. Cockshutt,    |
| 22. Belford,     | 71. Cody,         |
| 23. Beniah,      | 72. Colquhoun,    |
| 24. Berry,       | 73. Cook,         |
| 25. Bessborough, | 74. Cote,         |
| 26. Bicknell,    | 75. Coulson,      |
| 27. Birdsall,    | 76. Crawford,     |
| 28. Blakelock,   | 77. Cumming,      |
| 29. Blount,      | 78. Currie,       |
| 30. Bond,        | 79. Dargavel,     |
| 31. Bonis,       | 80. Deloro,       |
| 32. Bourassa,    | 81. Dempsay,      |
| 33. Bowman,      | 82. De Pencier,   |
| 34. Bowyer,      | 83. Devitt,       |
| 35. Boyce,       | 84. Dokis,        |
| 36. Boyle,       | 85. Duff,         |
| 37. Bradburn,    | 86. Dundonald,    |
| 38. Bradley,     | 87. Dunsmore,     |
| 39. Bragg,       | 88. Dyer,         |
| 40. Brain,       | 89. Ebbitt,       |
| 41. Bristol,     | 90. Ecclestone,   |
| 42. Brower,      | 91. Edwards,      |
| 43. Burrell,     | 92. Egan,         |
| 44. Burritt,     | 93. Eilber,       |
| 45. Burstall,    | 94. Elliott,      |
| 46. Byers,       | 95. Emerson,      |
| 47. Caithness,   | 96. Enid,         |
| 48. Calder,      | 97. Evelyn,       |
| 49. Calvert,     | 98. Fauquier,     |
| 50. Canfield,    | 99. Fenton,       |
| 51. Cargill,     | 100. Fergus,      |
| 52. Carman,      | 101. Findlay,     |
| 53. Carmichael,  | 102. Fintry,      |
| 54. Carnegie,    | 103. Fleck,       |
| 55. Caron,       | 104. Ford,        |
| 56. Carr,        | 105. Fortune,     |
| 57. Carroll,     | 106. Fournier,    |
| 58. Carscallen,  | 107. Fox,         |
| 59. Carss,       | 108. Frecheville, |
| 60. Case,        | 109. Freele,      |
| 61. Casgrain,    | 110. Fryatt,      |



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|-------------------|------------------|
| 111. Fushimi,     | 160. Hurdman,    |
| 112. Gaby,        | 161. Idington,   |
| 113. Galna,       | 162. Inglis,     |
| 114. Ganong,      | 163. Ireland,    |
| 115. Garden,      | 164. Irish,      |
| 116. Gardiner,    | 165. Jamieson,   |
| 117. Garrison,    | 166. Jessop,     |
| 118. Geary,       | 167. Kendall,    |
| 119. Gentles,     | 168. Kendrey,    |
| 120. German,      | 169. Kennedy,    |
| 121. Gill,        | 170. Kenning,    |
| 122. Glackmeyer,  | 171. Kerrs,      |
| 123. Godfrey,     | 172. Kidd,       |
| 124. Goldwin,     | 173. Kilmer,     |
| 125. Goodwin,     | 174. Kineras,    |
| 126. Gowan,       | 175. Kingsmill,  |
| 127. Greer,       | 176. Kipling,    |
| 128. Griffin,     | 177. Kirkland,   |
| 129. Guibord,     | 178. Knox,       |
| 130. Guilfoyle,   | 179. Kohler,     |
| 131. Gurney,      | 180. Laidlaw,    |
| 132. Habel,       | 181. Lamarche,   |
| 133. Haggart,     | 182. Lambert,    |
| 134. Haight,      | 183. Lamplugh,   |
| 135. Hambly,      | 184. Landry,     |
| 136. Hamlet,      | 185. Langemarck, |
| 137. Haney,       | 186. Laughton,   |
| 138. Hanlan,      | 187. Leitch,     |
| 139. Hanna,       | 188. Lennox,     |
| 140. Harewood,    | 189. Lewers,     |
| 141. Harker,      | 190. Lisgar,     |
| 142. Harmon,      | 191. Little,     |
| 143. Heath,       | 192. Loveland,   |
| 144. Hecla,       | 193. Lowther,    |
| 145. Heighington, | 194. Lucas,      |
| 146. Henderson,   | 195. Mabee,      |
| 147. Henley,      | 196. Macdiarmid, |
| 148. Hepburn,     | 197. Machin,     |
| 149. Hicks,       | 198. Macklem,    |
| 150. Hillmer,     | 199. Macvicar,   |
| 151. Hislop,      | 200. Magladery,  |
| 152. Hobson,      | 201. Mahaffy,    |
| 153. Hogg,        | 202. Maher,      |
| 154. Holloway,    | 203. Mahoney,    |
| 155. Homuth,      | 204. Mann,       |
| 156. Hopkins,     | 205. Marathon,   |
| 157. Horden,      | 206. Marceau,    |
| 158. Howells,     | 207. Marriott,   |
| 159. Hoyle,       | 208. Marven,     |

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|------------------|------------------|
| 209. Massey,     | 258. Ottaway,    |
| 210. Matheson,   | 259. Owens,      |
| 211. Maund,      | 260. Parliament, |
| 212. McAlpine,   | 261. Parnell,    |
| 213. McBrien,    | 262. Parr,       |
| 214. McCann,     | 263. Pearce,     |
| 215. McCart,     | 264. Pickett,    |
| 216. McCausland, | 265. Pinard,     |
| 217. McCoig,     | 266. Pitt,       |
| 218. McCool,     | 267. Playfair,   |
| 219. McCowan,    | 268. Pliny,      |
| 220. McCrea,     | 269. Potter,     |
| 221. McCuaig,    | 270. Poulett,    |
| 222. McKnight,   | 271. Prosser,    |
| 223. McLeister,  | 272. Purvis,     |
| 224. McMillan,   | 273. Pyne,       |
| 225. McQuibban,  | 274. Rand,       |
| 226. Menapia,    | 275. Rapley,     |
| 227. Mewhinney,  | 276. Raven,      |
| 228. Michaud,    | 277. Raynar,     |
| 229. Milligan,   | 278. Reaume,     |
| 230. Moberly,    | 279. Reid,       |
| 231. Montcalm,   | 280. Rickard,    |
| 232. Moody,      | 281. Ritchie,    |
| 233. Moose,      | 282. Robb,       |
| 234. Morrow.     | 283. Roebuck,    |
| 235. Mortimer,   | 284. Rogers,     |
| 236. Mountjoy,   | 285. Rykert,     |
| 237. Mowbray,    | 286. St. John,   |
| 238. Mulholland, | 287. Sanborn,    |
| 239. Mulloy,     | 288. Sanderson,  |
| 240. Mulvey,     | 289. Sangster,   |
| 241. Munro,      | 290. Sankey,     |
| 242. Murphy,     | 291. Sargeant,   |
| 243. Nansen,     | 292. Scapa,      |
| 244. Nassau,     | 293. Scovil,     |
| 245. Neely,      | 294. Seaton,     |
| 246. Nesbitt,    | 295. Selwyn,     |
| 247. Nettleton,  | 296. Shackleton, |
| 248. Newman,     | 297. Shannon,    |
| 249. Newmarket,  | 298. Shaw,       |
| 250. Nixon,      | 299. Shearer,    |
| 251. Nova,       | 300. Sheldon,    |
| 252. O'Brien,    | 301. Sheraton,   |
| 253. Ogden,      | 302. Sherring,   |
| 254. Oke,        | 303. Shetland,   |
| 255. Ophir,      | 304. Shuel,      |
| 256. Orkney,     | 305. Singer,     |
| 257. Ossin,      | 306. Slack,      |

307. Stapells,	335. Tisdale,
308. Staples,	336. Tolmie,
309. Staunton,	337. Torrance,
310. Steele,	338. Traill,
311. Stimson,	339. Tucker,
312. Stock,	340. Tully,
313. Stoddart,	341. Turnbull,
314. Storey,	342. Tweed,
315. Stoughton,	343. Valentine,
316. Strachan,	344. Verdun,
317. Stringer,	345. Wacousta,
318. Studholme,	346. Wadsworth,
319. Sulman,	347. Walker,
320. Sutcliffe,	348. Warden,
321. Swanson,	349. Wark,
322. Swartman,	350. Watson,
323. Sweatman,	351. Way,
324. Sweet,	352. Webster,
325. Sydere,	353. Weichel,
326. Syer,	354. Wesley,
327. Tannahill,	355. Whitesides,
328. Taylor,	356. Whitney,
329. Teefy,	357. Wilhelmina,
330. Teetzel,	358. Wilkie,
331. Thackeray,	359. Williamson,
332. Thomas,	360. Waddington,
333. Thorburn,	361. Wright,
334. Thorning,	

the Towns of—

- |                    |                       |
|--------------------|-----------------------|
| 1. Cochrane,       | 5. Matheson,          |
| 2. Hearst,         | 6. Smooth Rock Falls, |
| 3. Iroquois Falls, | 7. Timmins,           |
| 4. Kapuskasing,    |                       |

together with any other territory included within the following limits, that is to say,—

Commencing at a point on the south shore of James Bay where the same is intersected by the Interprovincial Boundary Line between the Provinces of Ontario and Quebec; thence south along said boundary line to the southeast angle of the Township of Dokis; thence west along the south boundaries of the Townships of Dokis, Tannahill, Elliott, Thackeray, Barnet, Cook, Playfair, McCann, Egan, Sheraton, Thomas, Carman, Shaw, Deloro, Ogden, Bristol, Carscallen and Whitesides to the southwest angle of the last mentioned Township; thence north along the west boundary of the Township of Whitesides to the northwest angle thereof; thence west along the south boundaries of the Townships of Enid, Strachan, Nova, and Ossin to the southwest angle of the last mentioned

Township; thence north along the west boundaries of the Townships of Ossin, Wadsworth, Lisgar, Seaton, Fenton and Staples to the northwest angle of the last mentioned Township; thence west along the north boundaries of the Townships of Shanly, Bourinot, Opazatika, Abbott, Doherty and Pelletier to the southeast angle of the Township of Scholfield; thence north along the east boundaries of the Townships of Scholfield and Ebbs to the northeast angle of the Township of Ebbs; thence west along the north boundaries of the Townships of Ebbs, Templeton, McFarlan, Dowsley to the northwest angle of the Township of Dowsley; thence north along the west limits of the Townships of Langemarck and Storey to the northwest angle of the Township of Storey; thence west along the south boundaries of the Townships of McMillan, McCoig, Kohler and Clavet to the southwest angle of the Township of Clavet being a point on Niven's meridian line of 1907 forming the easterly boundary of the District of Thunder Bay; thence north along the west boundaries of the Townships of Clavet and Boyce to the northwest angle of the Township of Boyce; thence west along the south boundaries of the Townships of Henderson, Selwyn, Barlow, Goodwin, Chipman and Raynar to the southwest angle of the Township of Raynar; thence north along the west boundary of the Township of Raynar and continuing north astronomically to the middle thread of the Albany River; thence southeasterly, easterly and northeasterly following the middle thread of the Albany River to James Bay; thence southeasterly and easterly following the shore of James Bay to the Interprovincial Boundary between the Provinces of Ontario and Quebec, the point of commencement.

Provisional  
Judicial  
District of  
Cochrane.

The Territorial District of Cochrane shall form the Provisional Judicial District of Cochrane.

Kenora.

#### 46.—THE TERRITORIAL DISTRICT OF KENORA

shall consist of the Townships of—

- |                |              |
|----------------|--------------|
| 1. Aubrey,     | 12. Drayton, |
| 2. Avery,      | 13. Echo,    |
| 3. Big Island, | 14. Eton,    |
| 4. Boys,       | 15. Ewart,   |
| 5. Broderick,  | 16. Forgie,  |
| 6. Brownridge, | 17. Gidley,  |
| 7. Buller,     | 18. Glass,   |
| 8. Burk,       | 19. Gundy,   |
| 9. Britton,    | 20. Hartman, |
| 10. Colenso,   | 21. Haycock, |
| 11. Dewan,     | 22. Ignace,  |

- |                 |                           |
|-----------------|---------------------------|
| 23. Jaffray,    | 49. Sanford,              |
| 24. Jordan,     | 50. Smellie,              |
| 25. Ladysmith,  | 51. Southworth,           |
| 26. Langton,    | 52. Temple,               |
| 27. Laval,      | 53. Umbach,               |
| 28. Lomond,     | 54. Van Horne,            |
| 29. MacFie,     | 55. Vermilion,            |
| 30. Mafeking,   | 56. Vermilion Additional, |
| 31. Malachi,    | 57. Wabigoon,             |
| 32. McAree,     | 58. Wainwright,           |
| 33. Melgund,    | 59. Wauchope,             |
| 34. Melick,     | 60. Zealand,              |
| 35. Mutrie,     | 61. Township 16,          |
| 36. Noyon,      | 62. Township 17,          |
| 37. Osaquan,    | 63. Township 18,          |
| 38. Pelican,    | 64. Township 21,          |
| 39. Pellatt,    | 65. Township 23,          |
| 40. Pettypiece, | 66. Township 24,          |
| 41. Pickerel,   | 67. Township 25,          |
| 42. Redditt,    | 68. Township 26,          |
| 43. Redvers,    | 69. Township 27,          |
| 44. Revell,     | 70. Township 38,          |
| 45. Rice,       | 71. Township 39,          |
| 46. Rowell,     | 72. Township 40,          |
| 47. Rudd,       | 73. Township 41,          |
| 48. Rugby,      | 74. Township 42,          |

and the Towns of—

- |              |                   |
|--------------|-------------------|
| 1. Dryden,   | 3. Kenora,        |
| 2. Keewatin, | 4. Sioux Lookout, |

together with all the remaining territory included within the following limits,—

Commencing at the 48th mile post on Niven's meridian line of 1890 in latitude 49 degrees 0 minutes 6 seconds north; thence due west 89 miles 71 chains 7 links more or less to the 18th mile post on Ontario Land Surveyor Alexander Niven's 6th meridian line; thence due north along said meridian line 6 miles to the 24th mile post thereon; thence due west 45 miles more or less to the east shore of Sabaskong Bay of Lake of the Woods; thence westerly and southwesterly along the south shore of said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary between the Dominion of Canada and the United States of America; thence northerly and westerly along said International Boundary to the Interprovincial Boundary between the Province of Ontario and the Province of Manitoba;



thence due north along said last mentioned boundary to the middle of the main channel of the Winnipeg River; thence easterly upstream along the middle of the main channel of the Winnipeg and English Rivers and the lake expansions and along the middle of Lac Seul and Root River to the portage on the height of land; thence along the middle of said portage to the waters flowing into Lake Joseph; thence along the middle of the main channel of Lake Joseph to Ontario Land Surveyor Dobie's meridian line run in 1919; thence due south along said last mentioned meridian line and along Ontario Land Surveyor Niven's meridian line run in 1890 to the point of commencement.

Provisional  
Judicial  
District of  
Kenora.

The Territorial District of Kenora shall form the Provisional Judicial District of Kenora.

Manitoulin. 47.—THE TERRITORIAL DISTRICT OF MANITOULIN

shall consist of the Townships of—

- |                      |                  |
|----------------------|------------------|
| 1. Allan,            | 11. Dawson,      |
| 2. Assiginack,       | 12. Gordon,      |
| 3. Barrie Island,    | 13. Howland,     |
| 4. Bidwell,          | 14. Humboldt,    |
| 5. Billings,         | 15. Mills,       |
| 6. Burpee,           | 16. Robinson,    |
| 7. Campbell,         | 17. Rutherford,  |
| 8. Carlyle,          | 18. Sandfield,   |
| 9. Carnarvon,        | 19. Sheguiandah, |
| 10. Cockburn Island, | 20. Tehkumah,    |

and the Towns of—

- |              |                    |
|--------------|--------------------|
| 1. Gore Bay, | 2. Little Current. |
|--------------|--------------------|

and the Islands named:—

- |                  |                    |
|------------------|--------------------|
| 1. Badgeley,     | 10. Heywood,       |
| 2. Bedford,      | 11. Lonely,        |
| 3. Clapperton,   | 12. McGregor,      |
| 4. Cloche,       | 13. Philip Edward, |
| 5. Club,         | 14. Rabbit,        |
| 6. Crescent,     | 15. Squaw,         |
| 7. Duck Islands, | 16. Strawberry,    |
| 8. Fitzwilliam,  | 17. Vidal,         |
| 9. George,       |                    |

together with all the remaining territory included within the following limits,—

Commencing at a point on the north shore of Georgian Bay at its intersection with the east boundary of the Township of Humboldt; thence due north along the said east boundary 10 miles more or less to the north boundary of the said Township; thence west along the north boundary of the Township

of Humboldt to the northwest angle thereof; thence north along the east boundary of the Township of Carlyle to the northeast angle thereof; thence west along the north boundary of the Township of Carlyle and Timber Berth 10 to the water's edge of Lake Huron; thence westerly and southerly following the water's edge to the narrow neck of land between the peninsula and the main land of the Whitefish River Indian Reserve; thence west astronomically along said narrow neck of land to the water's edge on the north shore of Lake Huron; thence northerly and westerly following the water's edge to its intersection with the west limit of the Township of Harrow; thence southerly to a point midway between the southwest end of Bedford Island and the southerly end of Clapperton Island; thence westerly and northwesterly following the middle thread of the water between Amedroz Island and Clapperton Island, and north of Clapperton Island to a point midway between the Great Manitoulin Island and the north shore of Lake Huron; thence westerly following the middle thread of that portion of Lake Huron lying between the north shore of Lake Huron and Great Manitoulin Island to a point in the International Boundary between the Dominion of Canada and the United States of America; thence southerly following the said International Boundary to a point south of the Great Duck Island; thence easterly to a point midway between the Great Manitoulin Island and Tobermory Harbour; thence east to a point in the Georgian Bay due south from the place of beginning; thence due north to the place of beginning.

The Territorial District of Manitoulin shall form the Provisional Judicial District of Manitoulin.

Provisional  
Judicial  
District of  
Manitoulin.

#### 48.—THE TERRITORIAL DISTRICT OF MUSKOKA Muskoka.

shall consist of the Townships of—

- |              |                 |
|--------------|-----------------|
| 1. Baxter,   | 12. Monck,      |
| 2. Brunel,   | 13. Morrison,   |
| 3. Cardwell, | 14. Muskoka,    |
| 4. Chaffey,  | 15. Oakley,     |
| 5. Draper,   | 16. Ridout,     |
| 6. Franklin, | 17. Ryde,       |
| 7. Freeman,  | 18. Sinclair,   |
| 8. Gibson,   | 19. Stephenson, |
| 9. Macaulay, | 20. Stisted,    |
| 10. McLean,  | 21. Watt,       |
| 11. Medora,  | 22. Wood,       |

and the Towns of—

- |                 |                 |
|-----------------|-----------------|
| 1. Bala,        | 3. Gravenhurst. |
| 2. Bracebridge, | 4. Huntsville,  |

and the Villages of—

1. Port Carling,
2. Port Sydney,
3. Windermere,

together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the River Severn lying northerly of the middle of the main channel of the River Severn and adjacent to the Townships of Baxter, Wood and Morrison.

Provisional  
Judicial  
District of  
Muskoka.

The Territorial District of Muskoka shall form the Provisional Judicial District of Muskoka.

Nipissing.

#### 49.—THE TERRITORIAL DISTRICT OF NIPISSING

shall consist of the Townships of—

- |                |                   |
|----------------|-------------------|
| 1. Airy,       | 35. Charlton,     |
| 2. Anglin,     | 36. Chisholm,     |
| 3. Angus,      | 37. Clancy,       |
| 4. Antoine,    | 38. Clarkson,     |
| 5. Askin,      | 39. Clement,      |
| 6. Aston,      | 40. Commanda,     |
| 7. Badgerow,   | 41. Crerar,       |
| 8. Ballantyne, | 42. Cynthia,      |
| 9. Banting,    | 43. Dana,         |
| 10. Barron,    | 44. Deacon,       |
| 11. Bastedo,   | 45. Devine,       |
| 12. Beaucage,  | 46. Dickens,      |
| 13. Belfast,   | 47. Dickson,      |
| 14. Bertram,   | 48. Edgar,        |
| 15. Best,      | 49. Eddy,         |
| 16. Biggar,    | 50. Eldridge,     |
| 17. Bishop,    | 51. Falconer,     |
| 18. Blyth,     | 52. Fell,         |
| 19. Bonfield,  | 53. Ferris, East, |
| 20. Boulter,   | 54. Ferris, West, |
| 21. Bower,     | 55. Field,        |
| 22. Boyd,      | 56. Finlayson,    |
| 23. Briggs,    | 57. Fitzgerald,   |
| 24. Bronson,   | 58. Flett,        |
| 25. Burnaby,   | 59. French,       |
| 26. Butler,    | 60. Freswick,     |
| 27. Butt,      | 61. Garrow,       |
| 28. Caldwell,  | 62. Gibbons,      |
| 29. Calvin,    | 63. Gladman,      |
| 30. Cameron,   | 64. Gooderham,    |
| 31. Canisbay,  | 65. Grant,        |
| 32. Canton,    | 66. Guthrie,      |
| 33. Cassels,   | 67. Hammell,      |
| 34. Chambers,  | 68. Hartle,       |

69. Herbert,	102. Olive,
70. Hobbs,	103. Orlig,
71. Hugel,	104. Osborne,
72. Hunter,	105. Osler,
73. Joan,	106. Papineau,
74. Jocko,	107. Pardo,
75. Kenny,	108. Parkman,
76. Kirkpatrick,	109. Paxton,
77. La Salle,	110. Peck,
78. Latchford,	111. Pedley,
79. Lauder,	112. Pentland,
80. Law,	113. Phelps,
81. Leroche,	114. Phyllis,
82. Lister,	115. Poitras,
83. Lockhart,	116. Preston,
84. Loudon,	117. Riddell,
85. Lyell,	118. Sabine,
86. Lyman,	119. Scholes,
87. Master,	120. Sisk,
88. Mattawan,	121. Springer,
89. McAuslan,	122. Sproule,
90. McCallum,	123. Stewart,
91. McCraney,	124. Strathcona,
92. McLaren,	125. Strathy,
93. McLaughlin,	126. Stratton,
94. McPherson,	127. Thistle,
95. McWilliams,	128. Torrington,
96. Merrick,	129. Vogt,
97. Milne,	130. White,
98. Mulock,	131. Widdifield,
99. Murchison,	132. Wilkes,
100. Niven,	133. Wyse,
101. Notman,	134. Yates,

the City of North Bay,  
and the Towns of—

- |               |                    |
|---------------|--------------------|
| 1. Bonfield,  | 3. Mattawa,        |
| 2. Cache Bay, | 4. Sturgeon Falls, |

together with all the remaining territory included within the following limits,—

Commencing at the southeast angle of the Township of Falconer; thence west along the south boundary thereof to the east boundary of the Township of Martland; thence north along the east boundaries of the Townships of Martland, Haddo, Casimir, to the south boundary of the Township of Dunnet; thence due east along the south boundary of the Township of Dunnet to the southeast angle thereof; thence due north along the east boundaries of the Townships of

Dunnet, Ratter, Henry, James, McNish, Macbeth, Afton and Armagh to the northeast angle of the last mentioned Township; thence due east along the south boundary of the Township of Delhi to the southeast angle thereof; thence due north along the east boundaries of the Townships of Delhi and Shelburne to the northeast angle thereof; thence east along the north boundaries of the Townships of Canton, Aston, Banting and Best and continuing east astronomically a distance of 30 miles more or less to the southwest angle of the Township of Lorrain; thence south astronomically along the west boundary of the Township of South Lorrain 12 miles to the northeast angle of the Township of Riddell; thence east astronomically  $10\frac{1}{2}$  miles more or less along the south boundary of the Township of South Lorrain to the Interprovincial Boundary in Lake Timiskaming between the Provinces of Ontario and Quebec; thence along the said boundary between Ontario and Quebec southerly and southeasterly to the northwest angle of the Township of Clara; thence southerly, westerly and southerly to the southwest angle of the Township of Clara; thence easterly along the southerly boundary of the Township of Clara; thence southerly and easterly along the westerly and southerly boundaries of the Townships of Maria and Head to the westerly boundary of the Township of Rolph; thence southerly along the westerly boundaries of the Townships of Rolph, Wylie, McKay and Fraser to the northeast angle of the Township of Richards; thence westerly along the northerly boundaries of the Townships of Richards and Burns to the northwest angle of the said Township of Burns; thence southerly along the westerly boundary of the Township of Burns to the northeast angle of the Township of Jones; thence westerly along the northerly boundary of the Township of Jones to the northeast angle of the Township of Lyell; thence southerly along the easterly boundary of the Township of Lyell to the southeast angle of the Township of Lyell; thence westerly along the southerly boundaries of the Townships of Lyell and Sabine to the easterly boundary of the Township of Clyde; thence northerly along the easterly boundaries of the Townships of Clyde and Nightingale to the northeast angle of the Township of Nightingale; thence westerly along the northerly boundary of the Townships of Nightingale, Lawrence, Livingston and McClintock to the easterly boundary of the Township of Sinclair; thence northerly along the easterly boundary of the Township of Sinclair to the southerly boundary of the Township of Bethune; thence easterly to the southeast corner of the Township of Bethune; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the south boundary of the Township of Himsworth, South; thence easterly and northerly along the southerly and easterly boun-



daries of the Township of Himsworth, South, to the northeast angle thereof; thence northerly along the easterly boundary of the Township of Himsworth, North, to the northeast angle thereof; thence westerly along the northerly boundary of the Township of Himsworth, North, to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the middle of the main channel of the French River south of and off the easterly end of Blueberry Island; thence westerly along the main channel of the French River to a point midway between Islands numbered 23 and 24 in said river; thence west astronomically to the shore of Okickendawt Island, in the French River, same being part of the Dokis Indian Reserve No. 9; thence northerly, westerly, southerly and southeasterly and westerly following the water's edge of said island to a point in the midstream of the French River produced east astronomically from the south boundary of the Township of Falconer; thence due west crossing the waters of the French River and along the south boundary of the Township of Latchford to the southeast angle of the Township of Falconer, the place of beginning.

The Territorial District of Nipissing shall form the Provisional Judicial District of Nipissing.

Provisional  
Judicial  
District of  
Nipissing.

50.—THE TERRITORIAL DISTRICT OF PARRY SOUND Parry Sound.

shall consist of the Townships of—

- |                       |                       |
|-----------------------|-----------------------|
| 1. Armour,            | 22. Himsworth, South, |
| 2. Bethune,           | 23. Humphrey,         |
| 3. Blair,             | 24. Joly,             |
| 4. Brown,             | 25. Laurier,          |
| 5. Burpee,            | 26. Lount,            |
| 6. Burton,            | 27. Machar,           |
| 7. Carling,           | 28. McConkey,         |
| 8. Chapman,           | 29. McDougall,        |
| 9. Christie,          | 30. McKellar,         |
| 10. Conger,           | 31. McKenzie,         |
| 11. Cowper,           | 32. McMurrich,        |
| 12. Croft,            | 33. Mills,            |
| 13. Ferguson,         | 34. Monteith,         |
| 14. Ferrie,           | 35. Mowat,            |
| 15. Foley,            | 36. Nipissing,        |
| 16. Gurd,             | 37. Patterson,        |
| 17. Hagerman,         | 38. Perry,            |
| 18. Hardy,            | 39. Pringle,          |
| 19. Harrison,         | 40. Proudfoot,        |
| 20. Henvey,           | 41. Ryerson,          |
| 21. Himsworth, North, | 42. Shawanaga,        |

- |                      |                 |
|----------------------|-----------------|
| 43. Spence,          | 45. Wallbridge, |
| 44. Strong,          | 46. Wilson,     |
| the Towns of—        |                 |
| 1. Kearney,          | 3. Powassan,    |
| 2. Parry Sound,      | 4. Trout Creek, |
| and the Villages of— |                 |
| 1. Burk's Falls,     | 4. South River, |
| 2. Magnetawan,       | 5. Sundridge,   |
| 3. Rosseau,          |                 |

together with all the remaining territory included within the following limits,—

Commencing at a point where the southerly boundary of the Township of Conger intersects the waters of the Georgian Bay, being the southwest corner of the Township of Conger; thence easterly along the southerly boundary of the Townships of Conger and Humphrey to the southeast corner of the Township of Humphrey; thence northerly along the eastern boundary of the Township of Humphrey to the northeast corner of the Township of Humphrey; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the southeast corner of the Township of Bethune; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly, and Laurier to the southerly boundary of the Township of Himsworth, South; thence along the southerly and easterly boundaries of the Township of Himsworth, South, to the northeast angle thereof; thence northerly along the easterly boundary of the Township of Himsworth, North, to the northeast angle thereof; thence westerly along the northerly boundary of the Township of Himsworth, North, to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the middle of the main channel of the French River south of and off the easterly end of Blueberry Island; thence westerly along the main channel of the French River to a point midway between Islands numbered 23 and 24 in said river; thence west astronomically to the shore of Okickendawt Island in the French River, same being part of Dokis Indian Reserve No. 9; thence northerly, westerly, southerly and southeasterly and westerly following the water's edge of said island to a point in the midstream of the French River produced east astronomically from the south boundary of the Township of Falconer; thence southerly and westerly following the main channel of the French River; thence continuing along the midstream of the Western and Voyageur Channels of the said French River to a point midway between the Islands numbered 4576 and 4581 at the junction of the Voyageur and Fort Channels of the said French River; thence following the midstream of the said

Fort Channel of the French River and its production south-westerly to a point in Georgian Bay situate one hundred and ninety chains south astronomically from the southeast angle of the Township of Humboldt; thence southeasterly along the easterly shore of the said Georgian Bay to the place of begin-ning, including Parry Island and the islands opposite to and along the said easterly shore of the Georgian Bay.

The Territorial District of Parry Sound shall form the Provisional Judicial District of Parry Sound.

Provisional  
Judicial  
District of  
Parry Sound.

51.—THE TERRITORIAL DISTRICT OF PATRICIA

Patricia.

shall consist of the Townships of

- |               |                 |
|---------------|-----------------|
| 1. Agnew,     | 15. Fairlie,    |
| 2. Baird,     | 16. Goodall,    |
| 3. Ball,      | 17. Graves.     |
| 4. Balmer,    | 18. Heyson,     |
| 5. Bateman,   | 19. Honeywell,  |
| 6. Belanger,  | 20. Knott,      |
| 7. Birkett,   | 21. McDonough.  |
| 8. Bowerman,  | 22. McNaughton, |
| 9. Byshe,     | 23. Mitchell,   |
| 10. Corless,  | 24. Ranger,     |
| 11. Costello, | 25. Shaver,     |
| 12. Dent,     | 26. Skinner,    |
| 13. Dome,     | 27. Todd,       |
| 14. Earngey,  | 28. Willans,    |

together with all the remaining territory included within the following limits,—

Commencing at the most northerly point of the westerly boundary of the Province of Ontario as determined by *The Canada (Ontario) Boundary Act, 1889*, Chapter 28, of the Statutes of 1889 of the United Kingdom, (the said westerly boundary being the easterly boundary of the Province of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake as shown in approxi-mate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada, published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of the Province of Ontario as

established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. (*See 1912, c. 3.*)

[NOTE: *As to provision for the administration of justice, registration of instruments, etc., in Patricia, see The Patricia Act,—Rev. Stat. c. 5.*]

Rainy River.

## 52.—THE TERRITORIAL DISTRICT OF RAINY RIVER

shall consist of the Townships of—

- |                 |                        |
|-----------------|------------------------|
| 1. Asmussen,    | 29. McIrvine,          |
| 2. Atwood,      | 30. Miscampbell,       |
| 3. Aylsworth,   | 31. Morley,            |
| 4. Baker,       | 32. Morley Additional, |
| 5. Barwick,     | 33. Morson,            |
| 6. Bennett,     | 34. Nelles,            |
| 7. Blue,        | 35. Pattullo,          |
| 8. Burriss,     | 36. Potts,             |
| 9. Carpenter,   | 37. Pratt,             |
| 10. Croome,     | 38. Ramsay Wright,     |
| 11. Crozier,    | 39. Richardson,        |
| 12. Curran,     | 40. Roddick,           |
| 13. Dance,      | 41. Roseberry,         |
| 14. Devlin,     | 42. Rowe,              |
| 15. Dewart,     | 43. Schwenger,         |
| 16. Dilke,      | 44. Shenston,          |
| 17. Dobie,      | 45. Sifton,            |
| 18. Farrington, | 46. Spohn,             |
| 19. Fleming,    | 47. Sutherland,        |
| 20. Freeborn,   | 48. Tait,              |
| 21. Halkirk,    | 49. Tanner,            |
| 22. Hutchinson, | 50. Tovell,            |
| 23. Kingsford,  | 51. Trottier,          |
| 24. Lash,       | 52. Watten,            |
| 25. Mather,     | 53. Weaver,            |
| 26. Mathieu,    | 54. Woodyatt,          |
| 27. McCaul,     | 55. Worthington,       |
| 28. McCrosson,  |                        |

and the Towns of—

- |                  |                 |
|------------------|-----------------|
| 1. Fort Frances, | 2. Rainy River, |
|------------------|-----------------|

together with all the remaining territory included within the following limits,—

Commencing where the westerly boundary of the District of Thunder Bay intersects the International Boundary be-

tween the Dominion of Canada and the United States of America in Saganaga Lake; thence due north along said district boundary to the 48th mile post thereon in latitude 49 degrees 0 minutes 6 seconds north; thence due west 89 miles, 71 chains, 7 links, more or less to the 18th mile post on Ontario Land Surveyor Alexander Niven's 6th meridian line; thence due north along said meridian line 6 miles to the 24th mile post thereon; thence due west 45 miles more or less to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to said International Boundary; thence southerly along said International Boundary to the mouth of the Rainy River; thence southeasterly and easterly up Rainy River along said International Boundary to Rainy Lake; thence easterly, southerly and southeasterly following the said International Boundary through Rainy Lake and the several lakes, rivers and portages along the International Boundary, to the place of beginning.

The Territorial District of Rainy River shall form the Provisional Judicial District of Rainy River.

Provisional  
Judicial  
District of  
Rainy River.

### 53.—THE TERRITORIAL DISTRICT OF SUDBURY Sudbury.

shall consist of the Townships of—

- |              |                |
|--------------|----------------|
| 1. Abbey,    | 22. Balfour,   |
| 2. Abney,    | 23. Baltic,    |
| 3. Acadia,   | 24. Barclay,   |
| 4. Acheson,  | 25. Battersby, |
| 5. Addison,  | 26. Baynes,    |
| 6. Admiral,  | 27. Beaumont,  |
| 7. Afton,    | 28. Beemer,    |
| 8. Alcona,   | 29. Benneweis, |
| 9. Alcorn,   | 30. Benton,    |
| 10. Allen,   | 31. Beresford, |
| 11. Alton,   | 32. Beulah,    |
| 12. Amyot,   | 33. Bigelow,   |
| 13. Antrim,  | 34. Biggs,     |
| 14. Appleby, | 35. Bigwood,   |
| 15. Arbutus, | 36. Biscotasi, |
| 16. Arden,   | 37. Blewett,   |
| 17. Armagh,  | 38. Blezard,   |
| 18. Asquith, | 39. Bonar,     |
| 19. Awrey,   | 40. Borden,    |
| 20. Aylmer,  | 41. Botha,     |
| 21. Baldwin, | 42. Bowell,    |



- |                  |                    |
|------------------|--------------------|
| 43. Brackin,     | 92. Davis,         |
| 44. Brebeuf,     | 93. Delamere,      |
| 45. Broder,      | 94. Delhi,         |
| 46. Browning,    | 95. Delmage,       |
| 47. Brunswick,   | 96. DeMorest,      |
| 48. Brutus,      | 97. Denison,       |
| 49. Buckland,    | 98. Dennie,        |
| 50. Burrows,     | 99. Denyes,        |
| 51. Burwash,     | 100. Des Rosiers,  |
| 52. Busby,       | 101. Dill,         |
| 53. Cabot,       | 102. Dore,         |
| 54. Calais,      | 103. Dowling,      |
| 55. Capreol,     | 104. Drury,        |
| 56. Carew,       | 105. Dryden,       |
| 57. Carter,      | 106. Dublin,       |
| 58. Cartier,     | 107. Dunbar,       |
| 59. Carty,       | 108. Dundee,       |
| 60. Cascaden,    | 109. Dunlop,       |
| 61. Casimir,     | 110. Dunnet,       |
| 62. Cavell,      | 111. Durban,       |
| 63. Chalet,      | 112. Earl,         |
| 64. Champagne,   | 113. Edinburgh,    |
| 65. Chapleau,    | 114. Edith,        |
| 66. Chaplin,     | 115. Ellis,        |
| 67. Cherriman,   | 116. Emerald,      |
| 68. Chester,     | 117. Emo,          |
| 69. Chewett,     | 118. English,      |
| 70. Churchill,   | 119. Eric,         |
| 71. Clary,       | 120. Ermatinger,   |
| 72. Cleland,     | 121. Esther,       |
| 73. Clifton,     | 122. Ethel,        |
| 74. Cochrane,    | 123. Evans,        |
| 75. Collins,     | 124. Fairbairn,    |
| 76. Comox,       | 125. Fairbank,     |
| 77. Connaught,   | 126. Falconbridge, |
| 78. Coppell,     | 127. Faust,        |
| 79. Copperfield, | 128. Fawcett,      |
| 80. Cortez,      | 129. Fawn,         |
| 81. Cosby,       | 130. Fingal,       |
| 82. Cotton,      | 131. Floranna,     |
| 83. Cox,         | 132. Foleyet,      |
| 84. Craig,       | 133. Foster,       |
| 85. Creelman,    | 134. Foy,          |
| 86. Creighton,   | 135. Fraleck,      |
| 87. Crockett,    | 136. Frater,       |
| 88. Crothers,    | 137. Frechette,    |
| 89. Cunningham,  | 138. Frey,         |
| 90. Dale,        | 139. Fulton,       |
| 91. D'Arcy,      | 140. Gallagher,    |

- |                  |                   |
|------------------|-------------------|
| 141. Gamey,      | 190. Ivanhoe,     |
| 142. Gardhouse,  | 191. Ivy,         |
| 143. Garibaldi,  | 192. Jack,        |
| 144. Garnet,     | 193. Janes,       |
| 145. Garson,     | 194. Jasper,      |
| 146. Garvey,     | 195. Jennings,    |
| 147. Genoa,      | 196. Joffre,      |
| 148. Gilbert,    | 197. Keith,       |
| 149. Gladwin,    | 198. Kelly,       |
| 150. Goschen,    | 199. Kelso,       |
| 151. Gough,      | 200. Kelvin,      |
| 152. Gouin,      | 201. Kemp,        |
| 153. Graham,     | 202. Kenogaming,  |
| 154. Greenlaw,   | 203. Kilpatrick,  |
| 155. Grigg,      | 204. Kitchener,   |
| 156. Groves,     | 205. Lackner,     |
| 157. Haddo,      | 206. Lampman,     |
| 158. Haentschel, | 207. Lang,        |
| 159. Hagar,      | 208. Laura,       |
| 160. Halcrow,    | 209. Leask,       |
| 161. Hall,       | 210. Leeson,      |
| 162. Hallam,     | 211. Leinster,    |
| 163. Halliday,   | 212. Lemoine,     |
| 164. Hanmer,     | 213. Levack,      |
| 165. Hardiman,   | 214. Lincoln,     |
| 166. Harrow,     | 215. Lipsett,     |
| 167. Hart,       | 216. Lloyd,       |
| 168. Harty,      | 217. Londonderry, |
| 169. Hassard,    | 218. Lorne,       |
| 170. Hawley,     | 219. Loughrin,    |
| 171. Hazen,      | 220. Louise,      |
| 172. Heenan,     | 221. Lumsden,     |
| 173. Hellyer,    | 222. Macbeth.     |
| 174. Hendrie,    | 223. Mackelcan,   |
| 175. Hennessy,   | 224. Maclellan,   |
| 176. Henry,      | 225. MacMurchy,   |
| 177. Hess,       | 226. Mageau,      |
| 178. Hill,       | 227. Mallard,     |
| 179. Hodgetts,   | 228. Manning,     |
| 180. Hoskin,     | 229. Marconi,     |
| 181. Howey,      | 230. Marion,      |
| 182. Hubbard,    | 231. Marquette,   |
| 183. Huffman,    | 232. Marshall,    |
| 184. Hutt,       | 233. Marshay,     |
| 185. Hutton,     | 234. Martland,    |
| 186. Hyman,      | 235. Mason,       |
| 187. Invergarry, | 236. Mattagami,   |
| 188. Inverness,  | 237. May,         |
| 189. Iris,       | 238. McBride,     |

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|------------------|-------------------|
| 239. McCarthy,   | 288. Porter,      |
| 240. McConnell,  | 289. Potier,      |
| 241. McGee,      | 290. Racine,      |
| 242. McKim,      | 291. Ramsden,     |
| 243. McKinnon,   | 292. Raney,       |
| 244. McLeod,     | 293. Rathbun,     |
| 245. McNamara,   | 294. Ratter,      |
| 246. McNaught,   | 295. Rayside,     |
| 247. McNish,     | 296. Reeves,      |
| 248. McOwen,     | 297. Regan,       |
| 249. McPhail,    | 298. Rennie,      |
| 250. Melrose,    | 299. Rhodes,      |
| 251. Merritt,    | 300. Roberts,     |
| 252. Middleboro, | 301. Roblin,      |
| 253. Miramichi,  | 302. Rollo,       |
| 254. Missinaibi, | 303. Sadler,      |
| 255. Moffat,     | 304. St. Louis,   |
| 256. Moher,      | 305. Salter,      |
| 257. Moncrieff,  | 306. Sandy,       |
| 258. Mond,       | 307. Scadding,    |
| 259. Mongowin,   | 308. Scollard,    |
| 260. Morgan,     | 309. Scotia,      |
| 261. Morse,      | 310. Seagram,     |
| 262. Muldrew,    | 311. Secord,      |
| 263. Munster,    | 312. Selby,       |
| 264. Murdock,    | 313. Selkirk,     |
| 265. Muskego,    | 314. Semple,      |
| 266. Nairn,      | 315. Servos,      |
| 267. Natal,      | 316. Sewell,      |
| 268. Neelon,     | 317. Shakespeare, |
| 269. Neville,    | 318. Sheard,      |
| 270. Newton,     | 319. Shelburne,   |
| 271. Noble,      | 320. Shelley,     |
| 272. Norman,     | 321. Shenango,    |
| 273. Northrup,   | 322. Sheppard,    |
| 274. Nursey,     | 323. Sherlock,    |
| 275. Oates,      | 324. Sladen,      |
| 276. Ogilvie,    | 325. Smuts,       |
| 277. Onaping,    | 326. Snider,      |
| 278. Oswald,     | 327. Somme,       |
| 279. Osway,      | 328. Sothman,     |
| 280. Panet,      | 329. Stetham,     |
| 281. Parker,     | 330. Stobie,      |
| 282. Parkin,     | 331. Stover,      |
| 283. Pattinson,  | 332. Stralak,     |
| 284. Paudash,    | 333. Streathearn, |
| 285. Paul,       | 334. Street,      |
| 286. Penhorwood, | 335. Struthers,   |
| 287. Pinogami,   | 336. Stull,       |

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|-----------------|-----------------------|
| 337. Swayze,    | 386. Tp. 9G,          |
| 338. Sweeny,    | 387. Tp. 9H,          |
| 339. Telfer,    | 388. Tp. 9Z,          |
| 340. Tilton,    | 389. Tp. 10,          |
| 341. Togo,      | 390. Tp. 10A,         |
| 342. Tooms,     | 391. Tp. 10B,         |
| 343. Totten,    | 392. Tp. 10C,         |
| 344. Travers,   | 393. Tp. 10D,         |
| 345. Trill,     | 394. Tp. 10E,         |
| 346. Turner,    | 395. Tp. 10F,         |
| 347. Tyrone,    | 396. Tp. 10G,         |
| 348. Ulster,    | 397. Tp. 10H,         |
| 349. Unwin,     | 398. Tp. 11,          |
| 350. Valin,     | 399. Tp. 11,          |
| 351. Vernon,    | 400. Tp. 11B,         |
| 352. Vrooman,   | 401. Tp. 11C,         |
| 353. Wakami,    | 402. Tp. 11D,         |
| 354. Waldie,    | 403. Tp. 11E,         |
| 355. Warren,    | 404. Tp. 11F,         |
| 356. Waters,    | 405. Tp. 11G,         |
| 357. Westbrook, | 406. Tp. 11H,         |
| 358. Whalen,    | 407. Tp. 12,          |
| 359. Whigham,   | 408. Tp. 12E,         |
| 360. Wigle,     | 409. Tp. 12F,         |
| 361. Wisner,    | 410. Tp. 12G,         |
| 362. Yeo,       | 411. Tp. 12H,         |
| 363. Zavitz,    | 412. Tp. 13G,         |
| 364. Tp. 3,     | 413. Tp. 13H,         |
| 365. Tp. 4,     | 414. Tp. 16,          |
| 366. Tp. 5,     | 415. Tp. 17,          |
| 367. Tp. 6,     | 416. Tp. 18,          |
| 368. Tp. 7,     | 417. Tp. 19,          |
| 369. Tp. 8,     | 418. Tp. 21,          |
| 370. Tp. 8A,    | 419. Tp. 22,          |
| 371. Tp. 8B,    | 420. Tp. 22 Range 15, |
| 372. Tp. 8C,    | 421. Tp. 22 Range 16, |
| 373. Tp. 8D,    | 422. Tp. 22 Range 17, |
| 374. Tp. 8E,    | 423. Tp. 22 Range 18, |
| 375. Tp. 8F,    | 424. Tp. 22 Range 19, |
| 376. Tp. 8G,    | 425. Tp. 22 Range 20, |
| 377. Tp. 8H,    | 426. Tp. 23,          |
| 378. Tp. 8Z,    | 427. Tp. 23 Range 15, |
| 379. Tp. 9,     | 428. Tp. 23 Range 16, |
| 380. Tp. 9A,    | 429. Tp. 23 Range 17, |
| 381. Tp. 9B,    | 430. Tp. 23 Range 18, |
| 382. Tp. 9C,    | 431. Tp. 23 Range 19, |
| 383. Tp. 9D,    | 432. Tp. 23 Range 20, |
| 384. Tp. 9E,    | 433. Tp. 23 Range 23, |
| 385. Tp. 9F,    | 434. Tp. 24,          |

435. Tp. 25,	450. Tp. 67,
436. Tp. 26,	451. Tp. 68,
437. Tp. 27,	452. Tp. 69,
438. Tp. 28,	453. Tp. 75,
439. Tp. 29,	454. Tp. 82,
440. Tp. 32,	455. Tp. 83,
441. Tp. 35,	456. Tp. 90,
442. Tp. 36,	457. Tp. 91,
443. Tp. 37,	458. Tp. 107,
444. Tp. 40,	459. Tp. 108,
445. Tp. 41,	460. Tp. 114,
446. Tp. 42,	461. Tp. 115,
447. Tp. 44,	462. Tp. 118,
448. Tp. 59,	463. Tp. 119,
449. Tp. 60,	464. Tp. 120,

the City of Sudbury,  
and the Towns of—

- |                  |                |
|------------------|----------------|
| 1. Capreol,      | 5. Frood Mine, |
| 2. Chelmsford,   | 6. Massey,     |
| 3. Coniston,     | 7. Webbwood,   |
| 4. Copper Cliff, |                |

together with all the remaining territory included within the following limits,—

Commencing at a point on the north shore of Lake Huron at the southwest angle of the Township of Harrow; thence north along the west boundary of the Township of Harrow to the southeast angle of the Township of Salter; thence westerly, southerly and westerly along the southerly boundary of the Township of Salter to the southwest angle of said Township; thence north along the west boundary thereof to the northwest angle of said Township; thence east along the said north boundary 6 miles to the northeast angle thereof; thence north along the west boundaries of the Township of Gough and Townships numbered 118, 119 and 120, a distance of 24 miles more or less to the northwest angle of Township No. 120; thence east along the north boundary of Township No. 120, 6 miles more or less to the southwest angle of Township No. 114; thence north along the west boundaries of Townships numbered 114 and 115, and the Townships of Gilbert and Dennie, 24 miles more or less to the northeast angle of the Township of Dennie; thence west along the north boundaries of Townships "D," "H," "L," "P," "T," 30 miles more or less to the 12th mile post on O. L. Surveyor Niven's meridian line; thence north astronomically along the west boundaries of the Townships of Comox, Fulton and Iris to the northwest angle of the Township of Iris; thence west astronomically along the north boundaries of Townships 7Z, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H and continuing west to O. L.



Surveyor T. B. Speight's meridian line of 1898; thence north astronomically along the east boundaries of Township 24 Range 15, Township 24 Range 16, Township 24 Range 17, Township 24 Range 18, Township 24 Range 19, Township 24 Range 20, Township 24 Range 21 and Township 24 Range 22 to the northeast angle of Township 24 Range 22; thence west along the north boundary of the said last mentioned township to the southwest angle of Township 23 Range 23; thence north along the west boundaries of Township 23 Range 23, Townships numbered 40, 42, 44 and the Townships of Stover and Rennie to the northwest angle of the last mentioned township; thence east along the north boundaries of the Townships of Rennie, Leeson, Baltic, Barclay, Calais, Lloyd, Bonar, Sherlock, Shenango, Oates, Oswald, Melrose and Frey to the northeast angle of the last mentioned township; thence south along the west boundaries of the Townships of Whitesides, Keefer, Hillary and Pharand, 24 miles more or less to the southwest angle of last mentioned township; thence east along the north boundaries of the Townships of Crothers, McBride, Hassard, Beemer, English and Zavitz, 36 miles more or less to the northeast angle of last mentioned township; thence south astronomically along the easterly boundaries of the Townships of Zavitz, Hutt, Halliday, Mond, Natal, MacMurchy, Fawcett, Ogilvie, Browning, 54 miles more or less to the southeast angle of the last mentioned township; thence east along the north boundaries of the Townships of Stull, McLeod, Ellis, Parker, Selby, Sladen,  $37\frac{3}{4}$  miles more or less to the northeast angle of the last mentioned township; thence southerly along the east boundaries of the Townships of Sladen, Shelburne, Delhi to the southeast angle of Delhi; thence west along the south boundary of the Township of Delhi to the northeast angle of the Township of Armagh; thence south along the east boundaries of the Townships of Armagh, Afton, Macbeth, McNish, Janes, Henry, Ratter and Dunnet, 48 miles more or less to the southeast angle of the Township of Dunnet; thence west along the south boundary thereof 60 chains, 68 links to the northeast angle of the Township of Casimir; thence south along the east boundaries of the Townships of Casimir, Haddo and Martland, 18 miles more or less to the north limit of the Township of Scollard; thence east along the north limit of the said Township of Scollard  $6\frac{1}{4}$  miles more or less to midstream between the main land and Indian Reserve Island Okickendawt in the French River; thence southerly and westerly following the main channel of the French River; thence continuing along the midstream of the Western and Voyageur Channels of the said French River to a point midway between Islands numbered 4576 and 4581 at the junction of the Voyageur and Fort Channels of the said French River; thence

following the midstream of the Fort Channel of the French River and its production southwesterly to a point in Georgian Bay situate one hundred and ninety chains south astronomically from the southeast angle of the Township of Humboldt; thence north astronomically to the southeast angle of the Township of Humboldt; thence north along the east boundary of the said Township a distance of ten miles more or less to the northeast angle of the Township of Humboldt; thence west along the north boundary of the Township of Humboldt to the northwest angle thereof; thence north along the east boundary of the Township of Carlyle to the northeast angle thereof; thence west along the north boundary of the Township of Carlyle and Timber Berth 10 to the water's edge of Lake Huron; thence westerly and southerly following the water's edge to the narrow neck of land between the peninsula and the main land of the Whitefish River Indian Reserve; thence west astronomically across said narrow neck of land to the water's edge on the north shore of Lake Huron; thence northerly and westerly along the water's edge of Lake Huron to the place of beginning.

Provisional  
Judicial  
District of  
Sudbury.

The Territorial District of Sudbury shall form the Provisional Judicial District of Sudbury.

Thunder  
Bay.

#### 54.—THE TERRITORIAL DISTRICT OF THUNDER BAY

shall consist of the Townships of—

- |               |                |
|---------------|----------------|
| 1. Adrian,    | 22. Danford,   |
| 2. Aldina,    | 23. Devon,     |
| 3. Alpha,     | 24. Dorion,    |
| 4. Ames,      | 25. Dorothea,  |
| 5. Ashmore,   | 26. Elmhirst,  |
| 6. Atikameg,  | 27. Errington, |
| 7. Bain,      | 28. Esnagami,  |
| 8. Barbara,   | 29. Eva,       |
| 9. Bell,      | 30. Exton,     |
| 10. Benner,   | 31. Fallis,    |
| 11. Bickle,   | 32. Fernow,    |
| 12. Blake,    | 33. Fletcher,  |
| 13. Booth,    | 34. Flood,     |
| 14. Bryant,   | 35. Forbes,    |
| 15. Bulmer,   | 36. Fowler,    |
| 16. Byron,    | 37. Fraleigh,  |
| 17. Colliver, | 38. Fulford,   |
| 18. Colter,   | 39. Furlonge,  |
| 19. Conmee,   | 40. Gibbard,   |
| 20. Croll,    | 41. Gillies,   |
| 21. Crooks,   | 42. Goldie,    |

- |                 |                   |
|-----------------|-------------------|
| 43. Gorham,     | 92. O'Connor,     |
| 44. Gzowski,    | 93. Oliver,       |
| 45. Hardwick,   | 94. O'Meara,      |
| 46. Hartington, | 95. Paipoonge,    |
| 47. Heathcote,  | 96. Pardee,       |
| 48. Hele,       | 97. Paska,        |
| 49. Hipel,      | 98. Pearson,      |
| 50. Hogarth,    | 99. Pic,          |
| 51. Homer,      | 100. Pifher,      |
| 52. Horne,      | 101. Poisson      |
| 53. Houck,      | 102. Purdom,      |
| 54. Innes,      | 103. Pyramid,     |
| 55. Inwood,     | 104. Rickaby,     |
| 56. Irwin,      | 105. Robbins,     |
| 57. Jacques,    | 106. Rupert,      |
| 58. Joynt,      | 107. Sackville,   |
| 59. Jutten,     | 108. Sandra,      |
| 60. Kirby,      | 109. Savanne,     |
| 61. Klotz,      | 110. Savant,      |
| 62. Kowkash,    | 111. Scoble,      |
| 63. Langworthy, | 112. Shabotik,    |
| 64. Lapierre,   | 113. Sibley,      |
| 65. Laurie,     | 114. Smye,        |
| 66. Ledger,     | 115. Stedman,     |
| 67. Leduc,      | 116. Stirling,    |
| 68. Legault,    | 117. Strange,     |
| 69. Lindsley,   | 118. Summers,     |
| 70. Lismore,    | 119. Trewartha,   |
| 71. Low,        | 120. Upsala,      |
| 72. Lybster,    | 121. Vincent,     |
| 73. Lyon,       | 122. Walters,     |
| 74. Macgregor,  | 123. Ware,        |
| 75. Manion,     | 124. Township 1,  |
| 76. Marks,      | 125. Township 2,  |
| 77. McComber,   | 126. Township 3,  |
| 78. McGill,     | 127. Township 4,  |
| 79. McGillis,   | 128. Township 5,  |
| 80. McIntyre,   | 129. Township 68, |
| 81. McLaurin,   | 130. Township 69, |
| 82. McQuesten,  | 131. Township 70, |
| 83. McTavish,   | 132. Township 71, |
| 84. Meader,     | 133. Township 72, |
| 85. Mikano,     | 134. Township 73, |
| 86. Moss,       | 135. Township 74, |
| 87. Nakina,     | 136. Township 75, |
| 88. Neebing,    | 137. Township 76, |
| 89. Nipigon,    | 138. Township 77, |
| 90. Oakes,      | 139. Township 78, |
| 91. Oboshkegan, | 140. Township 79, |

- |                   |                   |
|-------------------|-------------------|
| 141. Township 80, | 148. Township 87, |
| 142. Township 81, | 149. Township 88, |
| 143. Township 82, | 150. Township 89, |
| 144. Township 83, | 151. Township 90, |
| 145. Township 84, | 152. Township 91, |
| 146. Township 85, | 153. Township 92, |
| 147. Township 86, |                   |

and the Cities of—

- |                  |                 |
|------------------|-----------------|
| 1. Fort William, | 2. Port Arthur, |
|------------------|-----------------|

together with all the remaining territory included within the following limits,—

Commencing at a point where the westerly boundary of the District of Algoma intersects the water's edge of Lake Superior; thence due south to the intersection with the International Boundary Line between the United States of America and the Dominion of Canada in Lake Superior; thence northwesterly, southwesterly and westerly following the said International Boundary to the mouth of Pigeon River; thence westerly continuing along said International Boundary to a point in Saganaga Lake where the same would be intersected by Ontario Land Surveyor Niven's meridian line run in 1890, produced south, which meridian line forms the east boundary of the District of Rainy River; thence due north along said production and along said meridian line and along the production of said meridian line by Ontario Land Surveyor Dobie in 1919, to the middle channel of the waters of Lake St. Joseph; thence northeasterly along the middle channel of Lake St. Joseph and the Albany River to where the same would be intersected by the westerly boundary of the District of Cochrane; thence due south along said westerly boundary of the District of Cochrane to the southwest angle of the Township of Raynar; thence east along the north boundaries of the Townships of Bain, O'Meara, Fernow, Klotz, Low, Bell, to the northeast angle of the Township of Bell; thence south along the west boundary of the Townships of Boyce and Clavet and continuing south along Ontario Land Surveyor Niven's meridian line run in 1907 forming the westerly boundary of the District of Algoma to the place of beginning.

Provisional  
Judicial  
District of  
Thunder  
Bay,

The Territorial District of Thunder Bay shall form the Provisional Judicial District of Thunder Bay.

Timis-  
kaming.

### 55.—THE TERRITORIAL DISTRICT OF TIMISKAMING

shall consist of the Townships of—

- |           |               |
|-----------|---------------|
| 1. Adams, | 3. Argyle,    |
| 2. Alma,  | 4. Armstrong, |

- |                  |                    |
|------------------|--------------------|
| 5. Arnold,       | 54. Dymond,        |
| 6. Auld,         | 55. Eby,           |
| 7. Baden,        | 56. Eldorado,      |
| 8. Banks,        | 57. Evanturel,     |
| 9. Bannockburn,  | 58. Fallon,        |
| 10. Barber,      | 59. Farr,          |
| 11. Barr,        | 60. Fasken,        |
| 12. Bartlett,    | 61. Firstbrook,    |
| 13. Bayly,       | 62. Flavelle,      |
| 14. Beauchamp,   | 63. Fripp,         |
| 15. Ben Nevis,   | 64. Gamble,        |
| 16. Benoit,      | 65. Gauthier,      |
| 17. Bernhardt,   | 66. Geikie,        |
| 18. Bisley,      | 67. Gillies Limit, |
| 19. Black,       | 68. Grenfell,      |
| 20. Blackstock,  | 69. Gross,         |
| 21. Blain,       | 70. Harley,        |
| 22. Bompas,      | 71. Harris,        |
| 23. Boston,      | 72. Haultain,      |
| 24. Brethour,    | 73. Hearst,        |
| 25. Brewster,    | 74. Henwood,       |
| 26. Brigstocke,  | 75. Hillary,       |
| 27. Bryce,       | 76. Hilliard,      |
| 28. Bucke,       | 77. Hincks,        |
| 29. Burt,        | 78. Holmes,        |
| 30. Cairo,       | 79. Hudson,        |
| 31. Cane,        | 80. Ingram,        |
| 32. Casey,       | 81. James,         |
| 33. Catharine,   | 82. Katrine,       |
| 34. Chamberlain, | 83. Keefer,        |
| 35. Charters,    | 84. Kerns,         |
| 36. Childerhose, | 85. Kimberley,     |
| 37. Chown,       | 86. Kittson,       |
| 38. Cleaver,     | 87. Klock,         |
| 39. Clifford,    | 88. Knight,        |
| 40. Cole,        | 89. Langmuir,      |
| 41. Coleman,     | 90. Lawson,        |
| 42. Corkill,     | 91. Lebel,         |
| 43. Corley,      | 92. Leckie,        |
| 44. Dack,        | 93. Lee,           |
| 45. Dane,        | 94. Leith,         |
| 46. Davidson,    | 95. Leo,           |
| 47. Denton,      | 96. Leonard,       |
| 48. Donovan,     | 97. Lorrain,       |
| 49. Doon,        | 98. Lundy,         |
| 50. Douglas,     | 99. Maisonville,   |
| 51. Doyle,       | 100. Marquis,      |
| 52. Dufferin,    | 101. Marter,       |
| 53. Dunmore,     | 102. McArthur,     |



- |                      |                     |
|----------------------|---------------------|
| 103. McElroy,        | 135. Ray,           |
| 104. McEvay,         | 136. Raymond,       |
| 105. McFadden,       | 137. Reynolds,      |
| 106. McGarry,        | 138. Roadhouse,     |
| 107. McGiffin,       | 139. Robertson,     |
| 108. McKeown,        | 140. Robillard,     |
| 109. McNeil,         | 141. Rorke,         |
| 110. McVittie,       | 142. Savard,        |
| 111. Medina,         | 143. Sharpe,        |
| 112. Melba,          | 144. Sheba,         |
| 113. Michie,         | 145. Shillington,   |
| 114. Mickle,         | 146. Skead,         |
| 115. Midlothian,     | 147. Smyth,         |
| 116. Milner,         | 148. South Lorrain, |
| 117. Montrose,       | 149. Speight,       |
| 118. Morel,          | 150. Teck,          |
| 119. Morrisette,     | 151. Terry,         |
| 120. Mulligan,       | 152. Thorneloe,     |
| 121. Musgrove,       | 153. Timmins,       |
| 122. Nicol,          | 154. Tolstoi,       |
| 123. Nordica,        | 155. Trethewey      |
| 124. North Williams, | 156. Truax,         |
| 125. Ossian,         | 157. Tudhope,       |
| 126. Otto,           | 158. Tyrrell,       |
| 127. Pacaud,         | 159. Van Hise,      |
| 128. Pense,          | 160. Van Nostrand.  |
| 129. Pharand,        | 161. Wallis,        |
| 130. Pontiac,        | 162. Whitson,       |
| 131. Powell,         | 163. Willet,        |
| 132. Price,          | 164. Willison,      |
| 133. Rankin,         | 165. Yarrow,        |
| 134. Rattray,        |                     |

the Towns of—

- |               |                  |
|---------------|------------------|
| 1. Charlton,  | 4. Haileybury,   |
| 2. Cobalt,    | 5. Latchford,    |
| 3. Englehart, | 6. New Liskeard, |

and the Village of Thornloe,

together with all the remaining territory included within the following limits,—

Commencing at the northeast angle of the Township of Riddell in the Territorial District of Nipissing; thence north along the westerly boundary of the Township of South Lorrain 12 miles to the southeast angle of the Township of Lorrain; thence west in a straight line 12 miles more or less to the southeast angle of the Township of Brigstocke; thence continuing west along the south boundaries of the Townships of Brigstocke, Cole and Medina, 18 miles more or less to the southwest angle of the Township of Medina; thence north

along the westerly boundary of the Township of Medina 6 miles more or less to the northwest angle thereof; thence west along the southerly boundaries of the Townships of Rorke, McGiffin, Gamble, Corley, Leckie and Dufferin  $37\frac{3}{4}$  miles more or less to the southwest angle of the last mentioned township; thence north along the westerly boundaries of the Townships of Dufferin, North Williams, Leonard, Tyrrell, Knight, Raymond, Midlothian, Montrose and Hincks 54 miles more or less to the northwest angle of the last mentioned township; thence west along the southerly boundaries of the Townships of Geikie, Bartlett, Musgrove, Doyle, Childerhose and Pharand, 36 miles more or less to the southwest angle of the last mentioned township; thence north along the westerly boundaries of the Townships of Pharand, Hilary, Keefer to the northwest angle of the Township of Keefer; thence east along the north boundaries of the Townships of Keefer, Denton, Thorneloe, Price, Adams, Eldorado, Langmuir, Blackstock, Timmins, McEvay, Tolstoi, Black, Benoit, Melba, Bisley, Clifford, Ben Nevis and Pontiac to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence south and southerly along the said Interprovincial Boundary to a point east astronomically from the point of commencement; thence west astronomically  $10\frac{1}{2}$  miles more or less along the south boundary of the Township of South Lorrain to the point of commencement.

The Territorial District of Timiskaming shall form the Provisional Judicial District of Timiskaming. 1937, c. 77, s. 2. Provisional Judicial District of Timiskaming.

2. Notwithstanding the express mention herein of certain towns and villages as being included in certain counties and districts, every such county and district shall include any other town or village situate within the limits thereof. 1937, c. 77, s. 3. Inclusion of towns and villages although not mentioned.

#### UNITED COUNTIES, ETC.

3.—(1) For municipal, judicial and all purposes not otherwise provided for by law, the following counties shall continue to form unions of counties:— United counties.

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Northumberland and Durham;
4. Prescott and Russell.

(2) For judicial purposes every city shall, subject as to the City of Toronto to section 2 of *The Sheriffs Act*, be united to and form part of the county within the limits whereof it is situate; but for municipal purposes such cities, Cities and towns. Rev. Stat., c. 17.

and all towns and other municipalities withdrawn from the jurisdiction of the county, shall not form part of the counties in which they are respectively situate. 1937, c. 77, s. 4.

Courts,  
offices and  
institutions.

4. Each of such unions of counties under the name of the United Counties of                      and                      (*naming them*), shall for all purposes (except as before excepted), so long as such counties remain united, have in common, as if one county, all courts, offices and institutions established by law, pertaining to counties. 1937, c. 77, s. 5.

#### BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS.

Limits of  
townships  
bounded by  
certain lakes  
and rivers.

5.—(1) Except as provided in subsections 2 and 3 the limits of all the townships lying on the River St. Lawrence, Lake Ontario, the River Niagara, Lake Erie, the River Detroit, Lake St. Clair, the River St. Clair, Lake Huron (not including the Georgian Bay), the River St. Mary's and Lake Superior (not including Thunder Bay, Black Bay and Nipigon Bay), shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each township respectively; and unless herein otherwise provided, such townships shall also include all the islands, the whole or the greater part of which are comprised within the said outlines so prolonged.

Exception.

(2) Subsection 1 shall not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of the County of York produced southerly to the International Boundary Line, but in that part the limits of all townships on either side of the Lake shall extend to a line drawn from the intersection of the east boundary of the County of York produced with the International Boundary Line, westerly to the old outlet of Burlington Bay.

Rev. Stat.,  
c. 96.

(3) Subject to the provisions of *The Long Point Park Act* the Township of South Walsingham shall include the whole of Long Point. 1937, c. 77, s. 6.

Limits of  
townships  
on the  
Ottawa.

6. The limits of the townships lying on the River Ottawa shall in like manner extend to the boundary between the Province of Ontario and Quebec. 1937, c. 77, s. 7.

Limits of  
townships in  
Glengarry.

7. The limits of the townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the River St. Lawrence, and unless herein otherwise provided, shall also include every island, the whole or the greater part of

which is comprised within the outlines of such townships so prolonged. 1937, c. 77, s. 8.

8. The limits of the townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nipigon Bay, the River Trent and its lakes, Lake Simcoe, the River Severn, the River Rideau and its lakes, the River Thames, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, shall in like manner extend to the middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and unless herein otherwise provided, shall also include every island, the whole or the greater part of which is comprised within the outlines of such township so prolonged. 1937, c. 77, s. 9.

Limits of townships on Bay of Quinte and on other bays, lakes and rivers

9. Sections 5, 6, 7 and 8 shall not extend to any islands or parts of islands which are townships by themselves, or which have been expressly included in other townships in the original surveys and plans thereof remaining of record in the office of the Minister of Lands and Forests or by statute, but the same shall remain townships or parts of such other townships respectively. 1937, c. 77, s. 10.

Saving of islands being townships of themselves, etc.

#### NEW TOWNSHIPS.

10. Subject to the provisions of *The Municipal Act* the Lieutenant-Governor in Council may, by proclamation, constitute, from a day named therein, townships and unions of townships in those parts of Ontario in which townships or unions thereof have not been constituted, and may fix the metes and boundaries thereof. 1937, c. 77, s. 11.

Establishment of townships and unions of townships. Rev. Stat., c. 266.

#### CHANGING NAMES OF TOWNSHIPS.

11.—(1) The Lieutenant-Governor in Council may change the name of any township where no Letters Patent have been issued granting lands therein.

Changing names of townships.

(2) The Order-in-Council shall forthwith be published in the *Ontario Gazette*. 1937, c. 77, s. 12.

Publication of change.

#### STATUS OF CERTAIN OFFICERS ON ALTERATION OF BOUNDARIES.

12. Where a part of a county or of a provisional judicial district has been or shall be formed into or annexed to another district, the coroners, justices of the peace and commissioners for taking affidavits, residing in the territory so dealt with shall be the coroners, justices and commissioners for the

Status of coroners and other officers upon formation of a new district or annexation.

territorial district into which the territory in which they reside is formed or to which it has been attached, by the same tenure of office and without their again taking any oath. 1937, c. 77, s. 13.

GORES, ISLANDS, ETC.

Annexation  
of gores to  
adjacent  
townships.

**13.** The Lieutenant-Governor in Council may, by proclamation, annex any gore or tract of land not forming part of any township to any adjacent township or parts thereof to adjacent townships. 1937, c. 77, s. 14.

Location of  
islands.

**14.** Where, in the application of the provisions of this Act, there is doubt as to the township in which any island or other tract of land or land covered with water lies, the Lieutenant-Governor in Council may, by proclamation, declare to what township the same belongs. 1937, c. 77, s. 15.

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## CHAPTER 4.

## The Haliburton Act.

## PROVISIONAL COUNTY COUNCIL.

1. Except where herein otherwise provided the Provisional County of Haliburton and the corporation and council thereof shall have and possess respectively all the rights, powers, liabilities and incidents of a county, county corporation and county council; and, except where inconsistent with this Act, the law and the statutes applicable to counties, county corporations and county councils, and the members of such councils, shall apply. R.S.O. 1927, c. 4, s. 1.

Rights, liabilities and powers of the Provisional County corporation and council.

2. No by-law for granting aid to any railway company, shall be valid unless, within three months from the passing thereof, it is approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 4, s. 2.

By-laws in aid of railways.

3. The meetings of the council shall be held at the place within the county where the registry office is kept. R.S.O. 1927, c. 4, s. 3.

Council meetings of.

## ADMINISTRATION OF JUSTICE.

4. For judicial purposes, including the holding of courts, the officers of such courts, judicial process and proceedings, and the selection of jurors, the Provisional County shall be united to and form part of the County of Victoria. R.S.O. 1927, c. 4, s. 4.

County to form part of Victoria for judicial purposes.

5. The justices of the peace appointed for the Provisional County shall be entitled to sit in the general sessions held for the County of Victoria. R.S.O. 1927, c. 4, s. 5.

Justices of the peace.

6. Where an appeal lies from the decision of a justice or justices of the peace to the general sessions of the peace, the appeal in a case arising in the Provisional County shall lie to and may be heard and determined by the Court of General Sessions of the Peace for the County of Victoria. R.S.O. 1927, c. 4, s. 6.

Appeal from decisions of justices of the peace.

Returns of  
convictions.

**7.** All returns of convictions required by law to be made by a justice of the peace for the Provisional County shall be made to the clerk of the peace for the County of Victoria. R.S.O. 1927, c. 4, s. 7.

Erection of  
gaols.

**8.** The Lieutenant-Governor in Council may from time to time direct that one or more suitable gaols or lock-ups shall be provided by the Minister of Public Works and Highways, in the Provisional County out of any money appropriated for that purpose. R.S.O. 1927, c. 4, s. 8.

Gaols in  
Haliburton  
to be  
common  
gaols of  
Haliburton  
and Victoria.

**9.** Every gaol and lock-up erected under the authority of the Lieutenant-Governor in Council, shall be a common gaol of the Provisional County, and of the County of Victoria, for the safe custody of persons charged with the commission, within the Provisional County, of crimes, or with the commission therein of offences against any statute of Ontario, or against any municipal by-law, who may not have been finally committed for trial, and for the safe custody of such persons when finally committed for trial, until removed to the common gaol at Lindsay, and for the confinement of persons sentenced within the Provisional County for such crimes or offences, for periods not exceeding one month, and for the confinement of persons so sentenced for periods exceeding one month, until such persons can be conveniently removed to the common gaol at Lindsay, or other lawful prison to which they are sentenced. R.S.O. 1927, c. 4, s. 9.

Power to  
commit to  
the gaol at  
Lindsay.

**10.** Nothing in section 9 shall prevent any court, or justice of the peace from directing the committal to the common gaol at Lindsay, either for safe custody, or for punishment, of any person whom it may be considered expedient to commit thereto. R.S.O. 1927, c. 4, s. 10.

Appoint-  
ment of  
gaoler.

**11.**—(1) The sheriff of the County of Victoria shall have authority to appoint the gaoler for the Provisional County, but the appointment and dismissal of such gaoler shall be subject to the approval of the Lieutenant-Governor.

Salary of  
gaoler.

(2) The salary of the gaoler shall be provided by the council of the Provisional County, subject to the proper proportion thereof being repaid, according to the rule governing in other counties. R.S.O. 1927, c. 4, s. 11.

Appoint-  
ment of  
constables.

**12.** The Judge of the County Court of the County of Victoria shall have authority to appoint such constables as he may deem necessary for the Provisional County. R.S.O. 1927, c. 4, s. 12.

**13.**—(1) The Provisional County shall bear and pay to the corporation of the County of Victoria its just share or proportion of all charges and expenses from time to time incurred in erecting, building and repairing and maintaining, enlarging or improving the court house and common gaol at Lindsay and of the proper lighting, cleansing and heating thereof, and of providing all necessary and proper accommodation, fuel, light, stationery and furniture for the gaol and courts of justice, other than the division courts and for the library of the Law Association of the county and of providing proper offices, together with fuel, light, stationery and furniture for officers connected with such courts, where the same are required to be provided by the county council, and all other charges relating to criminal justice, payable by the county in the first instance, except constables' fees and disbursements, and charges connected with coroners' inquests and such other charges as the counties are entitled to be repaid by the Province.

Contribution  
by Halibur-  
ton to  
expenses of  
administra-  
tion of  
justice.

(2) The provisions of *The Municipal Act* with respect to the determination of the compensation to be paid by the corporation of a city or separated town to the corporation of the county in which for judicial purposes the city or town is situate shall apply to the determination of the compensation payable under this section. R.S.O. 1927, c. 4, s. 13.

Application  
Rev. Stat.,  
c. 266.

#### APPEALS IN ASSESSMENT CASES.

**14.**—(1) An appeal shall lie from the decision of the court of revision of any municipality within the Provisional County to the Judge of the County Court of the County of Victoria.

To whom  
appeal lies.

(2) The provisions of *The Assessment Act* with respect to appeals from the Judge of the County Court to The Ontario Municipal Board shall apply to the Provisional County. R.S.O. 1927, c. 4, s. 14.

Application  
Rev. Stat.,  
c. 272.

#### REGISTRAR.

**15.** The registrar of deeds shall keep his office in a place to be named for that purpose in his commission, or at such other place as may be from time to time appointed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 4, s. 15.

Registry  
office.

#### POWER OF TOWNSHIPS AND VILLAGES TO AID GRIST MILLS.

**16.**—(1) In addition to the powers conferred by *The Municipal Act*, the council of any township or village municipality in the Provisional County may pass by-laws for

Aid to grist  
mills by tak-  
ing stock or  
lending  
money.

(a) granting aid to or for promoting the establishment of a grist mill in such township or village;

Rev. Stat.,  
c. 266.

(b) taking stock in any company incorporated for establishing a grist mill in such township or village; or

(c) lending money to any such company.

Limit of aid. (2) The aid to be granted, the stock to be taken and the money to be lent under subsection (1) shall not in all exceed one-half of the actual cost of such grist mill or in any case the sum of \$3,000.

Assent of two-thirds of ratepayers voting. Rev. Stat., c. 266. (3) Notwithstanding anything in *The Municipal Act*, the vote in the affirmative of two-thirds of the electors actually voting upon any such by-law shall be necessary and sufficient to the carrying of the same.

Restriction upon power to grant bonus. (4) No such by-law shall be passed for or in respect of the establishment of a grist mill in a location less than fifteen miles from any grist mill established in the Provisional County and in operation on the 13th day of April, 1897.

Deciding disputes as to result of vote. Rev. Stat., c. 266. (5) In case of a dispute as to the result of the vote on any by-law the Judge of the County Court of the County of Victoria shall have the powers conferred by *The Municipal Act* upon the judge of a county court with respect to a scrutiny of the votes of electors upon a by-law.

Proceedings. (6) The petition to the judge may be by an elector or by the council; and the proceedings for obtaining the judge's decision shall be the same as nearly as may be as in the case of a scrutiny.

Representation of council on board of directors. (7) The council of a municipality taking stock in a company under the authority of this section shall, annually, at its first meeting for the year, elect from among its members a representative of such council to the board of directors of the company, and such representative shall be entitled to sit and vote at all meetings of the board and to vote at all meetings of shareholders in respect of the stock held by the municipality which he represents.

Application of Rev. Stat., c. 266. (8) Except as herein otherwise provided the provisions of *The Municipal Act* as to money by-laws and the obtaining the assent of the electors thereto shall apply. R.S.O. 1927 c. 4, s. 16.

## CONTINUATION AND HIGH SCHOOL GRANTS.

**17.** The liability of the Provisional County of Haliburton for the equivalent of the continuation school and high school grants under *The Continuation Schools Act* and *The High Schools Act* and for the cost of education of county pupils where such cost exceeds these grants, shall be payable one-third by the provisional county and two-thirds out of the provincial grants for secondary schools upon the requisition of the Minister of Education. 1931, c. 71, s. 16.

Liability of  
Provisional  
County of  
Haliburton.

Rev. Stat.,  
cc. 359, 360.



## CHAPTER 5.

## The Patricia Act.

District of  
Patricia  
annexed to  
Kenora.

1. That part of the Province of Ontario hereinafter described and heretofore known as the District of Patricia is hereby annexed to and shall form part of the Territorial District of Kenora and shall for judicial purposes form part of the Provisional Judicial District of Kenora to be known as the "Patricia Portion" thereof, that is to say, the territory described as follows:

Commencing at the most northerly point of the westerly boundary of the Province of Ontario as determined by *The Canada (Ontario) Boundary Act, 1889*, Chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the Province of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake, as shown in approximate latitude fifty-three degrees thirty minutes and longitude ninety-three degrees forty minutes on the railway map of the Dominion of Canada, published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of the Province of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. R.S.O. 1927, c. 5, s. 1.

Lieutenant-  
Governor in  
Council  
empowered  
to detach  
or annex  
territory.

2. The Lieutenant-Governor in Council may by proclamation at any time and from time to time detach the whole or any portion of the above described territory from the Territorial District of Kenora and may in like manner annex the

whole or such part thereof to any other territorial or provisional judicial district, or may designate the whole of the above described territory or any part thereof as a separate territorial district or provisional judicial district, and nothing in this Act contained shall restrict the powers of the Lieutenant-Governor in Council under this section. R.S.O. 1927, c. 5, s. 2.

**3.** In the event of the whole or any part of the above described territory being detached from the District of Kenora and annexed to any other territorial or provisional judicial district, or being erected into a separate provisional judicial district, the Lieutenant-Governor in Council may make such regulations as may from time to time be deemed necessary as to,—

Lieutenant-Governor in Council empowered to make regulations.

- (a) the establishment or jurisdiction of the district court;
- (b) the constitution and territorial jurisdiction of the division courts in such annexed territory or new provisional judicial district;
- (c) the transfer of books, plans and documents to the office of land titles in the district to which such territory is annexed or to the land titles office of the new provisional judicial district;
- (d) the transfer of books, plans and documents to the registry office of the district to which such territory is annexed or to the registry office of the new provisional judicial district; and
- (e) any matter incidental to the necessary adjustment occasioned by such annexation or the erection of such new provisional judicial district;

the intent and purpose of this section being that the Lieutenant-Governor in Council, in the event of any such annexation, or the erection of any such new provisional judicial district, make all appointments, issue all commissions and proclamations, give all such directions and make all such regulations and generally do whatever would be necessary and proper to be done upon the transfer of territory from one judicial district to another or upon the erection of a new provisional judicial district as to the administration of justice, registered dealings with land in the land titles office or registry office, and all other matters necessary to be dealt with thereon. R.S.O. 1927, c. 5, s. 3.

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## SECTION III.

### LEGISLATIVE ASSEMBLY AND ELECTIONS.

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#### CHAPTER 6.

#### The Representation Act.

Boundaries  
to be those  
existing at  
passing of  
Act.

**1.** Notwithstanding anything in any general or special Act the boundaries of any county, territorial district, city, town, village or township shall for the purposes of this Act be deemed to be the boundaries of such county, territorial district, city, town, village or township as defined by statute, by-law, proclamation or other lawful authority at the time of the passing of this Act. 1933, c. 56, s. 2.

Number of  
representa-  
tives.

**2.** The Legislative Assembly of Ontario shall consist of ninety members. 1933, c. 56, s. 3.

Division of  
Province  
into  
electoral  
districts.

**3.** The Province of Ontario shall for the purpose of representation in the Assembly be divided into electoral districts as enumerated and defined in schedule A to this Act and for each of such electoral districts one member shall be returned to the Assembly. 1933, c. 56, s. 4.

Changes in  
municipal  
boundaries  
not to affect  
Act.

**4.** The boundaries of any electoral district as set out in the schedule to this Act shall not be affected by any alteration in municipal boundaries hereafter made. 1933, c. 56, s. 5.

Town or  
village on  
boundary  
line.

**5.** The electors entitled to vote in any town or village, not expressly included in some electoral district as described in the schedule to this Act, and lying within the boundaries of two or more electoral districts, shall be entitled to vote in the electoral district in which they would have been so entitled if such town or village had not become incorporated. 1933, c. 56, s. 6.

6. Except as otherwise expressly set out in the schedule hereto every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which such township is situate. 1933, c. 56, s. 7.

Augmenta-  
tions or  
gores of  
townships.

7. A city which constitutes an electoral district, or which is divided into two or more electoral districts, according to the schedule to this Act, shall not for the purposes of this Act be deemed to form part of the electoral district within the limits of which it lies. 1933, c. 56, s. 8.

City having  
separate  
representa-  
tion not to  
be part of  
surrounding  
electoral  
district.

8.—(1) Every city, town, village or township heretofore or hereafter incorporated, lying within the territorial limits of any electoral district described in the schedule to this Act and not specially included in any other electoral district in the said schedule, shall form part of the electoral district in which it is situate. 1933, c. 56, s. 9.

Cities,  
towns, etc.,  
included in  
electoral  
district in  
which  
situate.

(2) Every city, town, village or township which by the provisions of any special Act of the Legislature of the Province of Ontario heretofore passed, forms or forms part of any electoral district shall hereafter and notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the schedule to this Act. 1934, c. 51, s. 3.

Special Acts  
overruled.

## SCHEDULE A

### ELECTORAL DISTRICTS OF THE PROVINCE OF ONTARIO

THE ELECTORAL DISTRICT OF ADDINGTON,—to consist of the Townships of Abinger, Anglesea, Ashby, Camden, Denbigh, Effingham, Kaladar, Sheffield, and the Village of Newburgh in the County of Lennox and Addington, and the Townships of Barrie, Bedford, North Canonto, South Canonto, Clarendon, Hinchinbrook, Kennebec, Loughborough, Pittsburg, Miller, Olden, Oso, Palmerston, Portland, Kingston and Storrington in the County of Frontenac.

ELECTORAL DISTRICT OF ALGOMA-MANITOULIN,—to consist of parts of the Territorial Districts of Sudbury and Algoma, described as follows:—Commencing at the southeast angle of the Township of MacKinnon on the north shore of Lake Huron; thence due north astronomically along the east boundary of the Townships of MacKinnon, Hallam, Shake-

speare, Dunlop, Bigelow, and Township No. 113 to the northeast angle of the latter, a distance of 36 miles, more or less; thence due west astronomically along the north boundary of said Township No. 113, 6 miles, more or less, to the southwest angle of Township No. 114; thence due north astronomically along the west boundary of Township No. 114, and along the west boundary of Township No. 115, 12 miles, more or less, to the northwest angle thereof; thence continuing due north astronomically along O.L.S. David Beatty's meridian line 12 miles; thence due west astronomically 30 miles, more or less, to the 12th mile post on O.L.S. Niven's meridian line; thence north astronomically along said meridian line 18 miles; thence due west astronomically 66 miles, more or less, to O.L.S. Speight's meridian line; thence due south astronomically along said meridian line 30 miles, more or less, to the northwest angle of the Township of Whitman; thence due south astronomically along the west boundary of the Townships of Whitman and Chesley to the north boundary of the Township of Kehoe; thence along the north boundary of said township to the northeast angle thereof; thence south along the east boundary of said township to the southeast angle; thence westerly along the southerly boundary of said township and its projection to Echo River; thence down Echo River to Echo Bay to Lake George; thence southerly along the east shore of said bay and along the east shore of Lake George to Lake Huron; thence easterly along the north shore of Lake Huron to the place of beginning; and to include all islands in Lake Huron lying north of the Judicial District of Manitoulin, west of the southern prolongation of the east boundary of the Township of MacKinnon; and of the Great Manitoulin Islands, Cockburn Island and other islands in the Georgian Bay, at present forming part of the Territorial District of Manitoulin, and that portion of the present Territorial District of Manitoulin on the mainland, and part of the Territorial District of Sudbury, described as follows, that is to say:—Commencing at the southeast angle of the Township of MacKinnon, on the north shore of Lake Huron; thence north astronomically along the east boundary of the Townships of MacKinnon, Hallam, Shakespeare, Dunlop and Bigelow, to the northeast angle of



the latter, a distance of 30 miles, more or less; thence due east astronomically along the north boundary of the Townships of Vernon and Totten, 12 miles, more or less, to the northeast angle of the latter; thence south astronomically along the east boundary of the Townships of Totten and Hyman, 12 miles, more or less, to the southeast angle of the latter; thence east astronomically along the south boundary of the Townships of Drury, Denison, Graham and Waters, 24 miles, more or less, to the northeast angle of Township No. 69; thence due south astronomically along the east boundary of Townships numbered 69, 68 and 67, 18 miles, more or less, to the northeast angle of the Township of Humboldt; thence due west astronomically along the north boundary of the Townships of Humboldt and Carlyle and along the south boundary of Townships numbered 82 and 90 to P. L. Surveyor Salter's second meridian line; thence due south astronomically along said meridian line, one mile, more or less, to the water's edge of Lake Huron; thence westerly along the north shore of said lake to the southeast angle of the Township of MacKinnon, or place of beginning.

THE ELECTORAL DISTRICT OF BRANT,—to consist of that part of the Township of Brantford lying north of the Grand River, the Townships of Burford, Blenheim, South Dumfries, Oakland, Onondaga, Tuscarora, Windham and Townsend, the Town of Paris, and the Village of Waterford.

THE ELECTORAL DISTRICT OF BRANTFORD,—to consist of the City of Brantford, and that part of the Township of Brantford lying south of the Grand River.

THE ELECTORAL DISTRICT OF BRUCE,—to consist of the Townships of Albemarle, Amabel, Arran, Bruce, Eastnor, Elderslie, Lindsay, St. Edmunds, Saugeen, Brant, Greenock, Kincardine, the Towns of Chesley, Southampton, Wiarton, Kincardine and Walkerton, and the Villages of Hepworth, Paisley, Tara, Tiverton, Port Elgin and Lion's Head.

THE ELECTORAL DISTRICT OF CARLETON,—to consist of the Townships of Fitzroy, Goulbourn, North Gower, Huntley, March, Marlborough, Nepean and Torbolton, and the Village of Richmond, that portion of Elmdale Ward in the City of Ottawa lying west

of the centre line of Parkdale Avenue and that portion of Victoria Ward in the City of Ottawa lying west of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF COCHRANE NORTH,—to consist of those portions of the territorial districts of Cochrane, South Algoma and Thunder Bay, and the District of Kenora, Patricia Portion, within the hereinafter described limits:—Commencing at the intersection of the interprovincial boundary between the Province of Ontario and the Province of Quebec with the south shore of Lake Abitibi; thence in a northerly and northwesterly direction following the shore line of the said lake to the southeast angle of the Township of Galna; thence westerly along the southern boundary of the Townships of Galna, Moody and Wesley to the southwest angle of the last mentioned township; thence north along the west boundary of the said Township of Wesley to the southeast angle of the Township of Mortimer; thence west along the south limits of the Townships of Mortimer, Pyne, St. John, Hanna, Reaume, Beck, Nesbitt, Aubin, Kingsmill and Kirkland; thence northerly along the westerly boundary of the Township of Kirkland to the southeast angle of the Township of Ford; thence westerly along the southern boundary of the Townships of Ford, Stringer, Slack and Fenton; thence northerly along the western boundary of the Townships of Fenton and Staples to the southern boundary of the Township of Sulman; thence westerly along the southern boundary of the Townships of Sulman, Cargill, Ecclestone, Fergus, Rykert, Caithness, Scholfield and Talbott; thence northerly along the western limits of the Townships of Talbott, Templeton, Landry and Irish to the northwest corner of the last mentioned township; thence westerly along the southern boundary of the Townships of Studholme, Gill, McMillan, McCoig, Kohler and Clavet; thence northerly along the western limit of the Township of Clavet to the southeast corner of the Township of Bell; thence west along the southern limit of the Townships of Bell, Low, Klotz, Fernow, O'Meara and Bain; thence northerly along the western boundary of the Townships of Bain and Raynar and following the boundary line between the territorial District of Thunder Bay and the territorial District of Cochrane and the production

of the said boundary line north astronomically to the northern boundary of the Province of Ontario; thence easterly, southerly and southeasterly along said northern boundary to a point where the boundary line between the Province of Quebec and the Province of Ontario intersects the south shore of James Bay; thence southerly along the said interprovincial boundary to the place of beginning.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH,—to consist of those portions of the District of Temiskaming and the District of Cochrane described as follows:—Commencing at a point on the line between the Province of Ontario and the Province of Quebec where the said boundary line intersects the production of the southern boundary of the Township of McGarry; thence westerly along the southern boundary of the Townships of McGarry, McVittie, Gauthier, Lebel, Teck, Grenfell, Bompas, Dunmore, Sheba, Robertson, McNeil, Cleaver, Geikie, Bartlett, Musgrove, Doyle, Childerhouse and Pharand; thence northerly following the west boundary of the Townships of Pharand, Hillary, Keefer and Whitesides to the southeasterly corner of the Township of Enid; thence westerly along the southern boundary of the Townships of Enid, Strachan, Nova and Ossin; thence northerly along the western boundary of the Townships of Ossin, Wadsworth, Lisgar and Seaton to the northwest angle of the Township of Seaton; thence easterly along the northern boundary of the Townships of Seaton, Griffin, Hicks and Oke to the northeast corner of the said Township of Oke; thence southerly along the eastern boundary of the Township of Oke to its intersection with the southern boundary of the Township of Kirkland; thence easterly along the southern boundary of the Townships of Kirkland, Kingsmill, Aubin, Nesbitt, Beck, Reaume, Hanna, St. John, Pyne and Mortimer; thence southerly following the western boundary of the Township of Wesley to the southwest angle of the said Township; thence easterly along the southern boundary of the Townships of Wesley, Moody and Galna to the shore of Lake Abitibi; thence following the shore line of the said lake in a southerly and southeasterly direction to a point where the boundary between the Province

of Ontario and the Province of Quebec intersects the south shore of the said lake; thence southerly along the said interprovincial boundary to the place of beginning.

THE ELECTORAL DISTRICT OF DUFFERIN-SIMCOE,—to consist of the Townships of Adjala, Essa, Mono, Mulmur, Nottawasaga, Tecumseth and Tossorontio, the Towns of Alliston, Collingwood, Stayner and Orangeville, and the Villages of Beeton, Creemore and Tottenham.

THE ELECTORAL DISTRICT OF DURHAM,—to consist of the County of Durham.

THE ELECTORAL DISTRICT OF ELGIN,—to consist of the Townships of Southwold, Bayham, Malahide, South Dorchester and Yarmouth, the City of St. Thomas, the Town of Aylmer, and the Villages of Port Stanley, Springfield and Vienna.

THE ELECTORAL DISTRICT OF ESSEX NORTH,—to consist of the Townships of Maidstone, Rochester, Sandwich East, Sandwich South, Tilbury North and Tilbury West, the city of East Windsor, the Towns of Riverside and Tecumseh, and the Villages of Belle River and St. Clair Beach.

THE ELECTORAL DISTRICT OF ESSEX SOUTH,—to consist of the Townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee (including the Islands forming part thereof), the Towns of Amherstburg, Essex, Kingsville and Leamington, and the Village of Harrow.

THE ELECTORAL DISTRICT OF FORT WILLIAM,—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say:—Commencing at a point on the International Boundary between the Province of Ontario and the United States of America where the same is intersected by the boundary lines between the Territorial Districts of Thunder Bay and Rainy River; thence northerly along the said district boundary and continuing along the district boundary between the Territorial District of Kenora and the Territorial District of Thunder Bay; thence continuing north through



the District of Kenora, Patricia Portion, to the northern boundary of the Province of Ontario; thence in a northeasterly direction along the said northern boundary line of the Province of Ontario to a point where the same is intersected by a line drawn due north astronomically from the northwest angle of the Nipigon Forest Reserve to the middle thread of the Albany River; thence westerly following the middle thread of the Albany River to a point due north astronomically from the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the northern boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township of Oliver; thence east astronomically along the north boundary of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the said Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the north limit of the said Township of Paipoonge and along the north limit of the Township of Neebing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point on Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to said International Boundary; thence southwesterly along said International Boundary to the mouth of the Pigeon River; thence continuing westerly along said International Boundary up Pigeon River to the west boundary of the Territorial District of Thunder Bay or place of beginning.

THE ELECTORAL DISTRICT OF GLENGARRY,—to consist of the County of Glengarry, the Township of Caledonia and that part of East Hawkesbury Township and West Hawkesbury Township lying south of the original road allowance between Concessions four and five, and the Town of Vankleek Hill.

THE ELECTORAL DISTRICT OF GRENVILLE-DUNDAS,—to consist of the County of Grenville and the County of Dundas.



THE ELECTORAL DISTRICT OF GREY NORTH,—to consist of the Townships of Collingwood, Derby, Keppel, Sarawak, St. Vincent, Sullivan and Sydenham, the City of Owen Sound, the Towns of Meaford and Thornbury, and the Village of Shallow Lake.

THE ELECTORAL DISTRICT OF GREY SOUTH,—to consist of the Townships of Artemesia, Bentinck, Egremont, Holland, Euphrasia, Glenelg, Normanby, Osprey and Proton, the Towns of Durham and Hanover, and the Villages of Chatsworth, Dundalk, Markdale, Neustadt and Flesherton.

THE ELECTORAL DISTRICT OF HALDIMAND-NORFOLK,—to consist of the County of Haldimand, the Townships of Charlotteville, Houghton, Middleton, Walsingham North, Walsingham South (including Long Point) and Woodhouse, the Town of Simcoe, and the Villages of Delhi, Port Dover and Port Rowan.

THE ELECTORAL DISTRICT OF HALTON,—to consist of the County of Halton.

THE ELECTORAL DISTRICT OF HAMILTON EAST,—to consist of that part of the City of Hamilton lying between the centre line of Wentworth Street on the west and the centre line of Ottawa Street on the east and continuing in a straight line northerly and southerly to the limits of the said City.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE,—to consist of that part of the City of Hamilton lying between the centre line of Queen Street on the west and the centre line of Wentworth Street on the east and continuing northerly and southerly to the brow of the Mountain.

THE ELECTORAL DISTRICT OF HAMILTON-WENTWORTH,—to consist of the Townships of East Flamboro, West Flamboro and Beverley, the Town of Dundas, and the Village of Waterdown, and all that portion of the City of Hamilton lying west of the centre line of Queen Street, and that portion of the Township of Barton being composed of parts of Lots 20 and 21 in Concessions 3 and 4 of the Township of Barton and more particularly described as follows:—Commencing at the intersection of the Hamilton-Brantford Highway with Paradise Road,

said Paradise Road being the division line between Lots 20 and 21 in the aforesaid township; thence southerly following the aforesaid division line to the road allowance between Concessions 3 and 4; thence easterly and following the aforesaid road allowance to the division line between Lots 19 and 20 of the aforesaid township; thence southerly along the aforesaid division line between Lots 19 and 20 to the brow of the Mountain; thence westerly along the brow of the Mountain to the division line between the Townships of Ancaster and Barton; thence northerly along said division line to the present Hamilton-Brantford Highway; thence easterly along said Highway to place of beginning.

THE ELECTORAL DISTRICT OF HASTINGS EAST,—to consist of the Townships of Hungerford, Huntingdon, Thurlow, Tyendinaga, Madoc, Wicklow, Bangor, Tudor, Limerick, Dungannon, Monteagle, Carlow, Mayo, Cashel, Grimsthorpe and Elzevir, the Town of Deseronto, and the Villages of Madoc and Tweed.

THE ELECTORAL DISTRICT OF HASTINGS WEST,—to consist of the Townships of Sidney, Rawdon, Marmora, Lake, Wollaston, Faraday, Herschel and McClure, the City of Belleville, the Town of Trenton, and the Villages of Delora, Marmora, Frankford, Bancroft and Stirling.

THE ELECTORAL DISTRICT OF HURON,—to consist of the Townships of Goderich, Hay, Hullett, McKillop, Stanley, Stephen, Tuckersmith and Usborne, the Towns of Clinton, Goderich and Seaforth, and the Villages of Exeter and Hensall.

THE ELECTORAL DISTRICT OF HURON-BRUCE,—to consist of the Townships of Ashfield, Carrick, Colborne, Culross, Grey, Howick, Huron, Kinloss, Morris, Turnberry, Wawanosh East and Wawanosh West, the Town of Wingham, and the Villages of Blyth, Brussels, Lucknow, Mildmay, Ripley and Teeswater.

THE ELECTORAL DISTRICT OF KENORA,—to consist of the Territorial District of Kenora, including that part of the Patricia Portion lying west of the production in a northerly direction through the Patricia

Portion of the boundary line between the Territorial District of Thunder Bay and the Territorial District of Kenora to the northern boundary of the Province of Ontario.

THE ELECTORAL DISTRICT OF KENT EAST,—to consist of the Townships of Camden (not including Gore), Harwich, Howard, Orford, Zone, Aldborough and Dunwich, the Towns of Blenheim, Bothwell and Ridgetown, and the Villages of Eriean, Highgate, Thamesville, Dutton, Rodney and West Lorne.

THE ELECTORAL DISTRICT OF KENT WEST,—to consist of the Townships of Chatham, East Dover, West Dover, Raleigh, Romney and Tilbury East, the City of Chatham, the Towns of Tilbury and Wallaceburg, and the Villages of Erie Beach and Wheatley.

THE ELECTORAL DISTRICT OF KINGSTON,—to consist of the City of Kingston, Amherst Island, Howe Island, Wolfe Island (including Simcoe Island, Horseshoe Island and Mud Island), and the Village of Portsmouth.

THE ELECTORAL DISTRICT OF LAMBTON EAST,—to consist of the Townships of Bosanquet, Brooke, Dawn, Enniskillen, Euphemia, Plympton, Warwick, the Gore of Camden, the Towns of Dresden, Forest and Petrolea, and the Villages of Alvinston, Arkona, Oil Springs, Thedford, Watford and Wyoming.

THE ELECTORAL DISTRICT OF LAMBTON WEST,—to consist of the Townships of Moore, Sarnia and Sombra (including Walpole Island, St. Anne's Island and the other Islands at the mouth of the River St. Clair), the City of Sarnia and the Villages of Courtwright and Point Edward.

THE ELECTORAL DISTRICT OF LANARK,—to consist of the Townships of Beckwith, Bathurst, Burgess North, Dalhousie, Darling, Drummond, Elmsley North, Lanark, Lavant, Montague, Pakenham, Ramsay, Sherbrooke North and Sherbrooke South, the Towns of Almonte, Carleton Place, Perth and Smith's Falls, and the Village of Lanark.

THE ELECTORAL DISTRICT OF LEEDS,—to consist of the Townships of Elizabethtown, Elmsley South, Kitley, the Rear of Yonge and Escott, Bastard, Burgess South, Crosby North, Crosby South, Front of Escott, Leeds and Lansdowne Front, Leeds and Lansdowne Rear, Front of Yonge, the Towns of Brockville and Gananoque, and the Villages of Athens, Newborough and Westport.

THE ELECTORAL DISTRICT OF LINCOLN,—to consist of the County of Lincoln and the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON,—to consist of that part of the City of London lying west of a line described as commencing at the intersection of Adelaide Street with the north boundary of the said city and following Adelaide Street and Oxford Street to the northeast corner of Wolsley Barracks area; thence following the easterly boundary of the barrack area and its projection southerly to the intersection of the projection of the south side of Central Avenue to the south side of Middleton Avenue; thence following the said projection and the south side of the said street easterly to its intersection with the west side of Glasgow Street; thence following the said west side of Glasgow Street and its projection southerly to the north side of Lorne Avenue and its projection easterly to Burbrook Place; thence following Burbrook Place southerly to Dundas Street and Dundas Street easterly to its intersection with the projection northerly of Swinyard Street; thence southerly along the said projection, the said street and its projection southerly to Pine Street; thence westerly and southerly along Pine Street, Elm Street, Trafalgar Street, Adelaide Street and its projection southerly to the centre line of the south branch of the river Thames; thence along the said centre line downstream to its intersection with the projection northerly of Beverly Street; thence southerly along the said projection and Wellington Street south to the south boundary of the said City.

THE ELECTORAL DISTRICT OF MIDDLESEX NORTH,—to consist of the Townships of Biddulph, London, McGillivray, Nissouri West, Williams East, Williams West; the Town of Parkhill, and the Villages of Ailsa Craig and Lucan, and that portion of the City of London not included in

the Electoral District of London as hereinbefore described.

THE ELECTORAL DISTRICT OF MIDDLESEX SOUTH,—to consist of the Townships of Adelaide, Caradoc, Delaware North Dorchester, Ekfrid, Lobo, Medcalfe, Mosa and Westminster, the Town of Strathroy, and the Villages of Glencoe, Newbury and Wardsville.

THE ELECTORAL DISTRICT OF MUSKOKA-ONTARIO,—to consist of the Provisional Judicial District of Muskoka, the Townships of Brock, Mara, Rama, Scott, Thorah and Uxbridge, the Town of Uxbridge and the Villages of Beaverton and Cannington.

THE ELECTORAL DISTRICT OF NIAGARA FALLS,—to consist of the Townships of Bertie, Stamford and Willoughby, the City of Niagara Falls, the Town of Fort Erie and the Villages of Chippawa and Crystal Beach.

THE ELECTORAL DISTRICT OF NIPISSING,—to consist of the following townships in the Territorial Districts of Nipissing and Sudbury:—Charlton, Lyman, Gladman, Kenny, Grant, Fell, McLaren, Sisk, Bertram, Springer, Field, Bastedo, Thistle, McCallum, Latchford, Caldwell, Badgerow, Gibbons, McWilliams, Hobbs, Falconer, Loudon, McPherson, Kirkpatrick, Hugel, Crerar, Dana, Pardo, Scollard, Martland, Haddo, Casimir, Dunnet, Ratter, Henry, Janes, McNish, Mason, Cosby, Cherriman, Jennings, Appleby, Bigwood, Delamere, Hoskin, Hendrie, Allen, Cox, Servos, Burwash, the unsurveyed township south of the Township of Waldie, Waldie, Laura, Secord, the unsurveyed township south of Township No. 59, Township No. 59, Township No. 60, Tilton, also that portion of the Indian Reserve on the north shore of Lake Nipissing lying south of the Townships of Charlton and Grant, also the islands in the French River and in that portion of Lake Nipissing within the Territorial Districts of Nipissing and Sudbury lying west of the southerly prolongation of the west limit of the Township of Blyth, also the Towns of Sturgeon Falls and Cache Bay and the following Townships in the Territorial District of Nipissing:—Papineau, Boyd, Lister, Freswick, Bower, Sproule, Calvin, Lauder, Pentland, Osler, Bishop, McLaughlin, Canisbay,



Bonfield, Boulter, Wilks, Biggar, Devine, Hunter, Peck, East Ferris and West Ferris, Chisholm, Ballantyne, Paxton, Butt, McCraney, Finlayson, Mattawan, Orlig, Phelps, Widdifield, Gooderham, part of Indian Reserve on the north shore of Lake Nipissing south of the Township of Blyth, Antoine, the unnamed township east of the Township of French, French, Mulock, Merrick, Eddy, the unnamed township west of Eddy, Lockhart, Stewart, Poitras, the unnamed township west of Poitras, Garrow, Osborne, Wyse, and the two unnamed townships to the west of Wyse, also the Townships of Blyth, Notman, Hammell, also the City of North Bay, and the Towns of Mattawa and Bonfield.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND,—to consist of the County of Northumberland.

THE ELECTORAL DISTRICT OF ONTARIO,—to consist of the Townships of Pickering, Reach, Scugog, Whitby and Whitby East, the City of Oshawa, the Town of Whitby, and the Village of Port Perry.

THE ELECTORAL DISTRICT OF OTTAWA EAST,—to consist of Ottawa, By, Rideau and St. George's Wards, that part of Riverdale Ward lying east of the Centre line of Main Street and that part of Victoria Ward lying east of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH,—to consist of Dalhousie, Capital, Central and Wellington Wards and that portion of Riverdale Ward lying west of the centre line of Main Street, and that portion of Elmdale ward lying east of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF OXFORD,—to consist of the Townships of Blandford, Nissouri East, Zorra East, Zorra West, Dereham, Norwich North, Norwich South, Oxford East, Oxford West and Oxford North, the City of Woodstock, the Towns of Ingersoll and Tillsonburg, and the Villages of Embro, Tavistock and Norwich.

THE ELECTORAL DISTRICT OF PARRY SOUND,—to consist of the Provisional Judicial District of Parry Sound.

THE ELECTORAL DISTRICT OF PEEL,—to consist of the County of Peel.

THE ELECTORAL DISTRICT OF PERTH,—to consist of the County of Perth, the City of Stratford, and the Towns of Palmerston and St. Marys.

THE ELECTORAL DISTRICT OF PETERBOROUGH,—to consist of the County of Peterborough and the City of Peterborough.

THE ELECTORAL DISTRICT OF PORT ARTHUR,—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say:—Commencing at a point in Lake Superior on the International Boundary between the Province of Ontario and the United States of America where the said International Boundary is intersected by the boundary line between the Territorial Districts of Thunder Bay and Algoma, in longitude 85 degrees, 20 minutes west; thence due north astronomically along said meridian line to the southeast angle of the Township of Bell, a distance of 176 miles, more or less; thence west astronomically along the south limit of the Townships of Bell, Low, Klotz, Fernow, O'Meara and Bain, 54 miles, more or less, to the southwest angle of the last-mentioned township; thence north astronomically along the western limit of the Townships of Bain and Raynar and the boundary between the Territorial District of Thunder Bay and the Territorial District of Cochrane and the said boundary line produced to the northern limit of the District of Kenora, Patricia Portion; thence westerly and southwesterly following the northern limit of the District of Kenora, Patricia Portion, to a point due north astronomically from the northwest angle of the Nipigon Forest Reserve; thence due south to the centre line of the Albany River; thence following the middle thread of the Albany River to a point due north astronomically of the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the north boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township

of Oliver; thence east astronomically along the northern limit of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the said Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the northern limit of the said Township of Paipoonge and along the northern limit of the Township of Neebing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point of Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to said International Boundary; thence northeast and southeast along said International Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF PRESCOTT,—to consist of the Townships of Alfred, Clarence, Cambridge, Longeuil, Plantagenet North, Plantagenet South, that part of the Townships of Hawkesbury East and Hawkesbury West lying north of the original road allowance between Concessions four and five, the Towns of Hawkesbury and Rockland, and the Villages of L'Orignal and Casselman.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX,—to consist of the County of Prince Edward, the Townships of Adolphustown, Fredericksburg North, Fredericksburg South, Richmond and Ernestown, the Town of Napanee, and the Village of Bath.

THE ELECTORAL DISTRICT OF RAINY RIVER,—to consist of the Territorial District of Rainy River.

THE ELECTORAL DISTRICT OF RENFREW NORTH,—to consist of the Townships of Airy, Anglin, Algona North, Alice, Bromley, Buchanan, Bronson, Barron, Clara, Cameron, Clancy, Dickens, Deacon, Dickson, Edgar, Fraser, Fitzgerald, Guthrie, Head, Lyell, Maria, McKay, Murchison, Master, Niven, Pembroke, Petawawa, Preston, Rolph, Ross, Stafford, Sabine, Stratton, Westmeath, Wilberforce, Wylie and White, the Town of Pembroke, the Village of Cobden and that part of the Village of Eganville lying north of the Bonnechere River.

THE ELECTORAL DISTRICT OF RENFREW SOUTH,—to consist of the Townships of Admaston, Algona South, Bagot, Blithfield, Brougham, Brudenell, Burns, Grattan, Griffith, Hagarty, Horton, Jones, Lynedoch, Matawatchan, McNab, Raglan, Radcliffe, Richards, Sebastopol and Sherwood, the Towns of Arnprior and Renfrew, and the Villages of Braeside, Killaloe Station and that part of the Village of Eganville lying south of the Bonnechere River.

THE ELECTORAL DISTRICT OF RUSSELL,—to consist of the Townships of Cumberland, Gloucester, Osgoode and Russell, the Town of Eastview, and the Village of Rockcliffe Park.

THE ELECTORAL DISTRICT OF STORMONT,—to consist of the County of Stormont.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE,—to consist of that part of the Territorial District of Algoma described as follows:—Commencing at the mouth of Echo River on the Garden River Indian Reserve; thence due west astronomically to the International Boundary between the Province of Ontario and the United States of America; thence northerly, westerly and northwesterly along the said International Boundary to where the same is intersected by the boundary between the Territorial Districts of Thunder Bay and Algoma in longitude 85 degrees 20 minutes west; thence due north astronomically following the said boundary to the southwest corner of the Township of Clavet; thence east astronomically along the south boundary of the Townships of Clavet, Kohler, McCoig, McMillan, Gill and Studholme 56 miles more or less, to the southeast angle of the Township of Studholme; thence southerly in a straight line to the northwest angle of the Township of Templeton, a distance of 18 miles, more or less; thence continuing south along the west boundary of the Townships of Templeton and Talbott, a distance of 18 miles, more or less, to the southwest angle of the latter; thence east astronomically along the south boundary of the Township of Talbott 2 miles 77 chains, more or less, to the northeast angle of the Township of Franz; thence south astronomically along the east boundary of the Townships of Franz, Hawkins, Irving, Martin, Moorehouse, and continuing southerly to a point



on Niven's base line in latitude 48 degrees 27 minutes 54 seconds north, which point constitutes the northwest angle of the Territorial District of Sudbury, a distance of 51 miles, more or less; thence south along T. B. Speight's meridian line, which constitutes the district boundary between the Territorial Districts of Sudbury and Algoma, to the northwest angle of the Mississauga Forest Reserve, a distance of 84 miles, more or less; thence continuing south astronomically along the west limit of Township No. 23, Ranges 14, 13, 12, 11 and 10, and the Townships of Whitman and Chesley, to the north limit of the Township of Kehoe; thence easterly along said north limit to the northeast angle thereof; thence south along the east limit of said township to the southeast angle thereof; thence west along said south boundary and its production to the Echo River; thence down Echo River to the place of beginning.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE,—to consist of the Townships of Floss, Innisfil, Sunnidale, Tiny, Vespra and Gwillimbury West, the Towns of Barrie and Penetanguishene, and the Village of Bradford.

THE ELECTORAL DISTRICT OF SIMCOE EAST,—to consist of the Townships of Matchedash, Medonte, Orillia, Oro and Tay, the Towns of Midland and Orillia, and the Villages of Coldwater, Port McNicholl and Victoria Harbour.

THE ELECTORAL DISTRICT OF SUDBURY,—to consist of those parts of the Territorial Districts of Sudbury, Algoma and Temiskaming within the hereinafter described limits, that is to say:—Commencing at the northeast angle of the Township of Zavitz in the said Territorial District of Sudbury; thence south along the east limit of the Townships of Zavitz, Hutt, Halliday, Mond, Natal, McMurchy, Fawcett, Ogilvie, Browning, Unwin, Leask, McNamara and Beaumont to the southeast angle of the last mentioned township, a distance of 78 miles, more or less; thence due east astronomically along the north boundary of the Township of Creelman to the northeast angle thereof, a distance of 6 miles; thence south astronomically along the east boundary of said Township of Creelman to the southeast angle thereof, a distance



of 6 miles; thence east astronomically along the north boundary of the Townships of Parkin, Aylmer, Mackelcan, and McCarthy to the northeast angle of the latter, a distance of 25 miles, more or less; thence due south astronomically along the east boundary of the Townships of McCarthy, Kelly, Davis, Loughrin and Hagar to the southeast angle of the latter, a distance of 30 miles, more or less; thence due west astronomically along the south boundary of the Township of Hagar 7 miles, more or less, to the northeast angle of the Township of Hawley; thence due south astronomically along the east boundary of the Township of Hawley 6 miles, more or less, to the southeast angle thereof; thence due west astronomically along the south boundary of the Townships of Hawley, Cleland, Dill, Broder, Waters, Graham, Denison, and Drury, a distance of 48 miles, more or less, to the southwest angle of the latter; thence due north astronomically along the west boundary of the Townships of Drury and Trill, a distance of 12 miles, more or less, to the southeast angle of the Township of Ermatinger; thence due west astronomically along the south boundary of the Township of Ermatinger and Township No. 107 to the southwest angle of the latter; thence due north astronomically along the west boundary of Township No. 107 to the southeast angle of Township No. 114; thence due west astronomically along the south boundary of Township No. 114 6 miles, more or less, to the southwest angle thereof; thence due north astronomically along the west boundary of Townships No. 114 and No. 115 12 miles, more or less, to the northwest angle of the latter; thence continuing due north astronomically along Ontario Land Surveyor David Beatty's meridian line 12 miles; thence due west astronomically 30 miles, more or less, to the 12th mile post on Ontario Land Surveyor Alexander Niven's meridian line; thence north astronomically along said meridian line 18 miles; thence due west astronomically 66 miles, more or less, to T. B. Speight's meridian line of 1898, which meridian constitutes the district line between the Territorial Districts of Algoma and Sudbury; thence north astronomically along said district line 84 miles, more or less, to the intersection with Niven's base line in latitude 48 degrees 27 minutes 54 seconds north, said point of inter-

section being the northwest angle of the Territorial District of Sudbury; thence continuing north to the southeast angle of the Township of Moorehouse; thence north along the east boundary of the Townships of Moorehouse, Martin, Irving, Hawkins and Franz to the northwest angle of the Township of Roche, a distance of 51 miles, more or less; thence east astronomically along the north boundary of the Townships of Roche, Pelletier and Doherty to the northeast angle of the latter, a distance of 27 miles; thence continuing east along O.L.S. Speight's base line of 1910 in latitude 49 degrees 12 minutes 6 seconds north, a distance of 16 miles and 33 chains to its intersection with the west shore of the Opazatika River; thence east astronomically  $17\frac{1}{2}$  miles, more or less, to the intersection with a line drawn north astronomically from the northeast angle of the Township of Davin; thence south astronomically 36 miles, more or less, to the northeast angle of the Township of Davin; thence south along the east limit of the Townships of Davin and Loughheed 18 miles, more or less, to the southeast angle of the last mentioned township; thence east astronomically along Ontario Land Surveyor Niven's base line in latitude 48 degrees, 27 minutes 54 seconds north, 36 miles to the northwest angle of the Township of Whitesides; thence south along the west limits of the Townships of Whitesides, Keefer, Hillary and Pharand, 24 miles, more or less to the southwest angle of the last mentioned township; thence east astronomically along the north boundaries of the Townships of Crothers, McBride, Hassard, Beemer, English and Zavitz, a distance of 36 miles, more or less, to the northeast angle of the latter, the point of commencement (and including the City of Sudbury).

THE ELECTORAL DISTRICT OF TEMISKAMING,—to consist of all that portion of the Territorial Districts of Nipissing, Sudbury, and Temiskaming within the hereinafter described limits:—Commencing at a point in the Interprovincial Boundary between the Provinces of Ontario and Quebec in the Ottawa River where the same is intersected by the easterly production of the north boundary of the Township of Wyse; thence due west astronomically  $59\frac{3}{4}$  miles, more or less, to the northwest angle of the Township of McNish; thence north astronomically

along the east limit of the Township of McCarthy 6 miles, more or less, to the northeast angle thereof; thence west astronomically along the north boundary of the Townships of McCarthy, Mackelcan, Aylmer and Parkin 25 miles, more or less, to the northwest angle thereof; thence north along the east boundary of the Township of Creelman to the northeast angle thereof; thence west astronomically along the north limit thereof 6 miles, more or less, to the southwest angle of the Township of Beresford; thence north along the west limits of the Townships of Beresford, Cotton, Valin, Stull, Dufferin, North Williams, Leonard, Tyrrell, Knight, Raymond, Midlothian, Montrose and Hincks 78 miles, more or less, to the northwest angle of the Township of Hincks; thence east along the south boundary of the Townships of Cleaver, McNeil, Robertson, Sheba, Dunmore, Bompas, Grenfell, Teck, Lebel, Gauthier, McVittie and McGarry, 72 miles, more or less, to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence south astronomically along the said Interprovincial Boundary to the head of Lake Temiskaming; thence southerly through Lake Temiskaming and the Ottawa River along said Interprovincial Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF VICTORIA,—to consist of the County of Victoria, and the Provisional County of Haliburton.

THE ELECTORAL DISTRICT OF WATERLOO NORTH,—to consist of the Townships of Wellesley and Woolwich and the north part of Waterloo Township, the City of Kitchener, the Town of Waterloo, and the Village of Elmira.

THE ELECTORAL DISTRICT OF WATERLOO SOUTH,—to consist of the Townships of Dumfries North, Wilmot and the south part of Waterloo Township, the City of Galt, the Towns of Hespeler and Preston, and the Villages of Ayr and New Hamburg.

THE ELECTORAL DISTRICT OF WELLAND,—to consist of the Townships of Crowland, Humberstone, Thorold, Wainfleet and Pelham, the City of Welland, the Towns of Port Colborne and Thorold, and the Villages of Fonthill and Humberstone.

THE ELECTORAL DISTRICT OF WELLINGTON NORTH,—to consist of the Townships of Arthur, Erin, Amaranth, Garafraxa East, Eramosa, Garafraxa West, Luther East, Luther West, Maryborough, Minto, Peel and Melancthon, the Towns of Harriston and Mount Forest, and the Villages of Arthur, Clifford, Drayton, Erin, Grand Valley and Shelburne.

THE ELECTORAL DISTRICT OF WELLINGTON SOUTH,—to consist of the Townships of Guelph, Nichol, Pilkington and Puslinch, the City of Guelph, and the Villages of Elora and Fergus.

THE ELECTORAL DISTRICT OF WENTWORTH—to consist of that portion of the City of Hamilton lying east of Ottawa Street, and also that portion of the City of Hamilton lying between the centre line of Queen Street on the west, and the centre line of Wentworth Street on the east and bounded on the north by the brow of the Mountain and on the south by the south limit of the City of Hamilton; the Townships of Saltfleet, Binbrook, Glanford, and Ancaster, and of the Township of Barton, excepting that portion thereof more fully described as follows:—Being composed of parts of Lots 20 and 21 in Concessions 3 and 4 of the Township of Barton and more particularly described as follows:—Commencing at the intersection of the Hamilton-Brantford Highway with Paradise Road, said Paradise Road being the division line between Lots 20 and 21 in the aforesaid township; thence southerly following the division line to the road allowance between Concessions 3 and 4; thence easterly and following the aforesaid road allowance to the division line between Lots 19 and 20 of the aforesaid Township; thence southerly along the aforesaid division line between Lots 19 and 20 to the brow of the Mountain; thence westerly along the brow of the Mountain to the division line between the Townships of Ancaster and Barton; thence northerly along said division line to the present Hamilton-Brantford Highway; thence easterly along said Highway to the place of beginning,

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE,—to consist of all that part of the City of Windsor, and the whole of the Town of Walkerville within the following limits:—Commencing at a point on the



centre line of Ouellette Avenue, in the City of Windsor, at its northern terminus; thence southerly along the centre line of Ouellette Avenue to Giles Boulevard; thence easterly along the centre line of Giles Boulevard to Howard Avenue; thence southerly along the centre line of Howard Avenue and proceeding in a straight line to the south boundary of the City of Windsor; thence easterly along the south boundaries of the City of Windsor and the Town of Walkerville to the easterly limit of the Town of Walkerville; thence northerly along the said easterly limit to the Detroit River; thence westerly along the bank of the said River to the place of beginning.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH,—to consist of that part of the City of Windsor and the whole of the Town of Sandwich within the following limits:—Commencing at the northern terminus of the westerly limit of the Town of Sandwich; thence in a southerly direction along the said limit to the southerly limit of the said Town of Sandwich; thence easterly along the southern boundaries of the Town of Sandwich and the City of Windsor to a point from which a straight line may be drawn through the centre line of Howard Avenue in the City of Windsor; thence northerly in a straight line through the centre line of Howard Avenue to the intersection of Howard Avenue with Giles Boulevard; thence westerly along the centre line of Giles Boulevard to the centre line of Ouellette Avenue; thence northerly along the centre line of Ouellette Avenue to the Detroit River; thence westerly along the bank of the said River to the place of beginning; the Township of Sandwich West, and the Towns of LaSalle and Ojibway.

THE ELECTORAL DISTRICT OF YORK EAST,—to consist of the Townships of Scarborough, East York, and Markham and that portion of the Township of North York lying east of the centre line of Yonge Street, the Town of Leaside, and the Villages of Markham and Stouffville.

THE ELECTORAL DISTRICT OF YORK NORTH,—to consist of the Townships of King, Whitchurch, Georgina, Gwillimbury North, Gwillimbury East, Vaughan and that portion of the Township of North York lying west of the centre line of Yonge Street, the



Towns of Aurora and Newmarket, and the Villages of Sutton West, Richmond Hill and Woodbridge.

THE ELECTORAL DISTRICT OF YORK SOUTH,—to consist of all that portion of the Township of York not included in the Electoral District of West York, and the Village of Forest Hill.

THE ELECTORAL DISTRICT OF YORK WEST,—to consist of all that portion of the Township of York lying west of a line drawn as follows: Commencing at the limits of the City of Toronto at the intersection of the centre line of Weston Road and the centre line of Northlands Avenue; thence northerly along the centre line of Weston Road to its intersection with Lambton Avenue; thence westerly along the centre line of Lambton Avenue to the Humber River, the Township of Etobicoke, the Towns of Mimico, New Toronto, Weston, and the Village of Long Branch. 1933, c. 56, Sched. "A", *part*.

THE ELECTORAL DISTRICT OF BEACHES,—to consist of that part of the City of Toronto bounded on the north by the north limit of the said city; on the south by the waters of Lake Ontario; on the east by the eastern limit of the said city, and on the west by the centre line of Woodbine Avenue and Woodbine Avenue produced southerly to the waters of Lake Ontario.

THE ELECTORAL DISTRICT OF BELLWOODS,—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the western boundary of the Island intersects the centre line of Tecumseh Street, produced south; thence northerly along the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Bathurst Street; thence north along the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence easterly along the centre line of the Canadian Pacific Railway tracks to the centre line of Spadina Road; thence north along the centre line of Spadina Road and Spadina Road produced to the city limits; thence westerly along the city limits and southerly along the city limits and westerly along the city limits

to intersection with the centre line of Christie Street, produced northerly; thence southerly and along the centre line of Christie Street to the centre line of Bloor Street; thence westerly along the centre line of Bloor Street to the centre line of Crawford Street; thence southerly along the centre line of Crawford Street to the centre line of King Street; thence easterly along the centre line of King Street to the centre line of Strachan Avenue; thence southerly along the centre line of Strachan Avenue and Strachan Avenue produced, to the waters of Lake Ontario; thence easterly along the waters of Lake Ontario to the place of beginning. 1934, c. 51, Sched. "A," *part*.

ELECTORAL DISTRICT OF BRACONDALE,—to consist of that part of the City of Toronto bounded on the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line drawn from the waters of Lake Ontario to the intersection of Strachan Avenue; thence along the centre line of Strachan Avenue to King Street; thence west along the centre line of King Street to Crawford Street; thence along centre line of Crawford Street to Bloor Street; thence easterly along centre line of Bloor Street to the intersection of Christie Street; thence north along centre line of Christie Street to the north city limits. It is bounded on the west by an imaginary line from Lake Ontario to Atlantic Avenue; thence north along centre line of Atlantic Avenue to King Street; thence north from King Street to Dovercourt Road; thence north along centre line of Dovercourt Road to Davenport Road; thence east on centre line of Davenport Road to Oakwood Avenue; thence north on centre line of Oakwood Avenue to city limits.

ELECTORAL DISTRICT OF DOVERCOURT,—to consist of that part of the City of Toronto bounded on the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line running from the waters of Lake Ontario to the intersection of Atlantic Avenue; thence along the centre line of Atlantic Avenue to Dovercourt Road; thence along the centre line of Dovercourt Road to Davenport Road; thence easterly on centre line of Davenport Road to Oakwood Avenue; thence along centre line of Oakwood

Avenue to northern city limits. It is bounded on the west by an imaginary line drawn from the waters of Lake Ontario to the intersection of Spencer Avenue; thence along the centre line of Spencer Avenue to King Street; thence easterly along the centre line of King Street to Elm Grove Avenue; thence north along the centre line of Elm Grove Avenue to Queen Street; thence west on centre line of Queen Street to Brock Avenue; thence north on centre line of Brock Avenue to Wallace Avenue; thence west on centre line of Wallace Avenue to Lansdowne Avenue; thence north along centre line of Lansdowne Avenue to St. Clair Avenue; thence west along centre line of St. Clair Avenue to western limits of Prospect Cemetery; thence north to city limits, not including McRoberts Avenue.

ELECTORAL DISTRICT OF EGLINTON,—to consist of that part of the City of Toronto now known as Ward 9.

THE ELECTORAL DISTRICT OF HIGH PARK,—to consist of that part of the City of Toronto now known as Ward 7, together with that portion of Ward 6 of said City described as follows:—Commencing at the intersection of the centre line of Lansdowne Avenue with the Canadian Pacific Railway; thence northerly along said centre line of Lansdowne Avenue to St. Clair Avenue; thence westerly along the centre line of St. Clair Avenue to the westerly limit of Prospect Cemetery; thence northerly along last-mentioned limit to the northerly limit of said city; thence westerly along last-mentioned limit to its intersection with the centre line of the Canadian Northern Railway, formerly the Northern Division of the Grand Trunk Railway System; thence southerly along the centre line of the said Railway to its intersection with the centre line of the Canadian Pacific Railway; thence easterly along last-mentioned railway to the place of beginning.

ELECTORAL DISTRICT OF PARKDALE,—to consist of that part of the City of Toronto bounded on the south by the waters of Lake Ontario; on the north by the centre line of Bloor Street from the intersection of Clendennan Avenue easterly to the boundary between Ward 6 and Ward 7; thence northerly along the centre line of the division between

Ward 6 and Ward 7 to Humberside Avenue; thence east along centre line of Humberside Avenue to Canadian Pacific Railway; thence north on Canadian Pacific Railway to the intersection of the Canadian Pacific Railway line running east and west; thence easterly on said Canadian Pacific Railway line to intersection of Lansdowne Avenue. It is bounded on the east by an imaginary line from the waters of Lake Ontario to the intersection of Spencer Avenue; thence northerly along the centre line of Spencer Avenue to King Street; thence east along centre line of King Street to Elm Grove Avenue; thence north along the centre line of Elm Grove Avenue to Queen Street; thence west on centre line of Queen Street to Brock Avenue; thence north along centre line of Brock Avenue to Wallace Avenue; thence west along centre line of Wallace Avenue to Lansdowne Avenue; thence north along centre line of Lansdowne Avenue to Canadian Pacific Railway track. It is bounded on the west by the city limits from Lake Ontario to the intersection of Clendennan Avenue and Bloor Street. 1933, c. 56, Sched. "A," *part*.

THE ELECTORAL DISTRICT OF RIVERDALE,—to consist of that part of the City of Toronto bounded on the east by a line drawn from the waters of Lake Ontario extending north along the centre line of Berkshire Avenue, produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence north along the centre line of Jones Avenue to the centre line of Danforth Avenue; thence easterly along the centre line of Danforth Avenue to the centre line of Dewhurst Avenue; thence north along the centre line of Dewhurst Avenue to the city limits; bounded on the north by the limits of the said city; bounded on the west by the Don roadway and the said roadway produced southerly to intersection with the waters of Lake Ontario to a point intersecting the Don River; thence following the centre line of the Don River to the northern city limits; and bounded on the south by the waters of Lake Ontario.



THE ELECTORAL DISTRICT OF ST. ANDREW,—to consist of that part of the City of Toronto bounded as follows: Commencing at a point on the northern boundary of the waters of Toronto Bay where the centre line of Peter Street, produced southerly intersects said waters; thence westerly along the northern boundaries of the waters of said Toronto Bay to intersection with the northern boundary of the western channel; thence westerly along the said northern boundary to intersection with the western boundary of the Island; thence north-westerly along said western boundary to intersection with the centre line of Tecumseh Street, produced southerly; thence north from the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence east on the centre line of Bloor Street to the centre line of Bathurst Street; thence north on the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence east on the centre line of the Canadian Pacific Railway tracks to the centre of Spadina Road; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the place of beginning.

THE ELECTORAL DISTRICT OF ST. DAVID,—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the Don roadway, produced southerly intersects the waters of Lake Ontario; thence northerly along said Don roadway and Don roadway produced to intersection with the Don River; thence along the centre of Don River to northern city limits; thence westerly along said northern city limits to intersection with the centre line of the belt line railway; thence northerly and north-westerly and westerly following the



centre line of said belt line railway to intersection with the centre line of Yonge Street; thence southerly along the centre line of Yonge Street to the ravine crossing Yonge Street, nearly opposite Walmsley Boulevard; thence south-easterly following the centre of said ravine to intersection with the centre line of the Canadian Pacific Railway; thence easterly along said centre line of the Canadian Pacific Railway to intersection with the centre line of MacLennan Avenue; thence southerly along the centre line of MacLennan Avenue to the centre line of Schofield Avenue; thence southerly along the centre line of Schofield Avenue to the centre line of Highland Avenue; thence south-easterly along the centre line of Highland Avenue to the centre line of Glen Road; thence southerly along the centre line of Glen Road to the centre line of South Drive; thence westerly along the centre line of South Drive to intersection with the centre line of Sherbourne Street; thence southerly along the centre line of Sherbourne Street and Sherbourne Street produced to the northern boundary of Toronto Bay; thence south-easterly in a straight line to the centre of the northerly end of the eastern channel; thence continuing south-easterly along the centre line of the eastern channel to the waters of Lake Ontario; thence easterly along the edge of the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF ST. GEORGE,—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the northern boundary of the waters of Toronto Bay are intersected by the centre line of Sherbourne Street produced southerly; thence northerly along the said Sherbourne Street and Sherbourne Street produced southerly to intersection with the centre line of South Drive; thence easterly along the centre line of South Drive to intersection with the centre line of Glen Road; thence northerly along the centre line of Glen Road to intersection with the centre line of Highland Avenue; thence north-westerly along the centre line of Highland Avenue to the centre line of Schofield Avenue; thence northerly along the centre line of Schofield Avenue to intersection with the centre line of MacLennan Avenue; thence northerly along the centre line of MacLennan Avenue to the centre

line of the Canadian Pacific Railway; thence westerly along the centre line of the Canadian Pacific Railway to intersection with the Ravine; thence north-westerly along the centre line of the Ravine to intersection with the centre line of Yonge Street; thence northerly along the centre line of Yonge Street to the centre line of the belt line railway; thence north-westerly along the centre line of the belt line railway to the city limits; thence southerly, easterly, southerly and westerly along the city limits to intersection with the centre line of Avenue Road produced northerly; thence southerly along the centre line of Avenue Road and Avenue Road produced northerly to the centre line of Davenport Road; thence easterly and south-easterly along the centre line of Davenport Road to intersection with the centre line of Bay Street; thence southerly along the centre line of Bay Street and Bay Street produced to the northern boundary of the waters of Toronto Bay; thence easterly along the northern boundary of the waters of Toronto Bay to the place of beginning.

THE ELECTORAL DISTRICT OF ST. PATRICK,—to consist of that part of the City of Toronto, bounded as follows: Commencing at a point where the waters of Lake Ontario are intersected by the centre line of the eastern channel; thence north-westerly along the centre line of the eastern channel to the centre at the north boundary of said channel; thence north-westerly in a straight line to a point on the northern boundary of the waters of Toronto Bay intersected by the centre line of Sherbourne Street produced southerly; thence westerly along the northern boundary of the waters of Toronto Bay to intersection with the centre line of Bay Street produced southerly; thence northerly along the centre line of Bay Street and Bay Street produced southerly to intersection with the centre line of Davenport Road; thence north-westerly along the centre line of Davenport Road to centre line of Avenue Road; thence northerly along the centre line of Avenue Road and Avenue Road produced to the city limit; thence westerly along the northern boundary of the city limit to intersection with the centre line of Spadina Road, produced northerly; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence

easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the northern boundary of the waters of Toronto Bay; thence westerly following the northern boundary of the waters of Toronto Bay and along the northern boundary of the western channel to intersection with the western boundary of Toronto Island; thence southerly across the western channel and along the western boundary of said Island and along the waters of Lake Ontario and easterly along the southern boundary of said Island and along the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF WOODBINE,—to consist of that part of the City of Toronto bounded on the east by the centre line of Woodbine Avenue, said centre line produced southerly to the waters of Lake Ontario; on the south by the waters of Lake Ontario; on the west by a line drawn from the waters of Lake Ontario, extending north along the centre line of Berkshire Avenue produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence along centre line of Jones Avenue to intersection with the centre line of Danforth Avenue; thence easterly to intersection with the centre line of Dewhurst Avenue; thence north along said centre line of Dewhurst Avenue to the city limits and bounded on the north by the city limits. 1934, c. 51, Sched. "A," *part*.

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## CHAPTER 7.

## The Voters' Lists Act.

## INTERPRETATION.

## 1. In this Act,—

Interpre-  
tation.

- (a) "Board" shall mean election board; "Board."
- (b) "Judge" shall mean judge of the county "Judge."  
or district court of the county or district  
and shall include a junior or acting judge, but  
shall not include a deputy judge;
- (c) "Prescribed" shall mean prescribed by this "Pre-  
Act or by regulations made under the scribed."  
authority of this Act;
- (d) "Voter" shall mean a person entitled to be "Voter."  
a voter, or to be named in the voters' list  
as qualified to be a voter either at an election  
of a member of the Assembly or at any muni-  
cipal election, as the case may be. R.S.O.  
1927, c. 7, s. 1.

## RULES AND FORMS.

2.—(1) The Lieutenant-Governor in Council may prescribe Rules and  
rules and forms of procedure for the purpose of better carrying forms.  
out the provisions of Parts I and II of this Act, and such rules  
and forms shall have the same effect and force as if they  
formed part of this Act. 1937, c. 81, s. 2.

(2) The forms in Schedule A to this Act may be modified or varied. Forms.  
but any such modification or variation shall  
be subject to the approval of the judge. R.S.O. 1927, c. 7, s.  
2 (2).

## APPLICATION OF PARTS I, II, III, IV, AND V.

3.—(1) Parts I and III shall apply to towns, townships, villages and except as varied by Part II, to cities. Application  
Parts I and  
III.

Part II.

(2) Part II shall apply to every city in which a by-law shall have been passed for taking the assessment at any time prior to the 30th day of September, and fixing separate dates for the return and final revision of the assessment rolls for each ward or subdivision of a ward, as defined in the by-law.

Part V.

(3) Part V shall apply to every part of Ontario, including Indian Reserves, not comprised in an organized municipality.

Territory  
without  
assessment  
roll.

(4) Territory comprised in a newly organized municipality for which there is no assessment roll shall for the purposes of subsection 3 be deemed to be still a portion of Ontario not comprised in an organized municipality.

Where list  
destroyed  
by fire or  
accident.

(5) Wherever through accident, fire or otherwise a municipality has no assessment roll or voters' list prepared under Part I or II, such municipality shall for the purposes of this Act be deemed to be a part of Ontario not comprised in an organized municipality. R.S.O. 1927, c. 7, s. 3.

*(See Part IV for the preparation and revision of the voters' lists for elections to the Assembly in cities and separated towns having a population of 10,000 or more and in townships bordering on a city having a population of 100,000 or more.)*

Returning  
officer to act  
on receipt of  
telegram in  
lieu of actual  
receipt of  
writ.Rev. Stat.,  
c. 8.

4. Notwithstanding anything contained in this Act or *The Election Act*, or any regulations passed pursuant to either of the said Acts, a returning officer in any electoral district, on being advised by the Clerk of the Crown in Chancery by telegraph that a writ for the holding of an election to the Assembly has been directed to him, shall forthwith commence his duties as prescribed by the said Acts and regulations, without waiting until he actually receives the said writ. 1933, c. 67, s. 13.

## PART I.

### LIST OF VOTERS AND COPIES.

List of voters  
in three  
parts.

5.—(1) The clerk of each municipality shall, immediately after the final revision and correction of the assessment roll in every year, make a correct list for each polling subdivision of the municipality in three parts (Form 1) of all persons appearing by the assessment roll or by the supplementary roll prepared by the assessor, to be voters.

Alphabetical  
or by street  
numbers.

(2) The list shall be made up alphabetically except in the case of a city, the council of which has by resolution directed that the list be made up in order of street numbers.



(3) The first of the three parts shall contain the names First part of all persons appearing by the assessment roll to be voters at both provincial and municipal elections.

(4) The second part shall contain the names of all persons, Second part. appearing by the assessment roll to be voters at municipal elections, but not at provincial elections.

(5) The third part shall contain the names of all persons Third part. appearing by the assessment roll or by the supplementary assessment roll to be voters at provincial but not at municipal elections.

(6) In a municipality containing a population of not more When third part to be printed. than 3,500, the third part of the list shall be printed with the first and second parts but in other municipalities the third part need not be printed and in that case the clerk of the municipality shall prepare three copies of the third part and deposit the same in the office of the clerk of the peace.

(7) The clerk of the peace shall furnish copies of the third Clerk of peace to furnish copies of third part. part or permit the inspection thereof, under the like circumstances and upon payment of the like fees as in the case of other documents kept or filed in his office.

(8) The name of the same person shall not be entered more Name to be entered once only on first or second part. than once on the first or second part of the voters' list except that, in the case of a municipality divided into wards, the name of the same person shall be entered upon the list as Exception. qualified to vote at municipal elections in every ward in which he is assessed for a sufficient amount to qualify him so to vote.

(9) Where a municipality is divided into polling subdivi- List for polling subdivisions. sions, lists shall be made for each subdivision. R.S.O. 1927, c. 7, s. 4 (1-9).

(10) In the case of a person who is a municipal elector Entering name of husband or wife of person rated. by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by *The Municipal Act*, or by reason of being a farmer's daughter, the clerk shall Rev. Stat., c. 266. opposite the name of such person, in the proper column, insert the letters "M.F.N.C." meaning that such person is entitled to vote at municipal elections, but is not to be counted for the purpose of determining representation in the county council. R.S.O. 1927, c. 7, s. 4 (10); 1932, c. 53, s. 1 (1).

(11) Where the qualification of a person to be a voter at Where qualification in respect of real property. a municipal election is in respect of real property, the clerk shall opposite the name of such person, insert in the proper

column the number of the lot or other proper description of the parcel of real property in respect of which such person is so qualified adding thereto where the person is so qualified in respect of more than one lot or parcel, the words "and other premises." R.S.O. 1927, c. 7, s. 4 (11).

Farmer's son  
and farmer's  
daughter.

(12) In the case of a person being a farmer's son or a farmer's daughter, the clerk shall insert opposite the name, in the proper column, the words "Farmer's Son" or "Farmer's Daughter" or the letters "F.S." or "F.D." as the case may be. 1932, c. 53, s. 1 (2).

Entry  
where voters  
assessed in  
several  
divisions of  
same ward.

(13) Where a ward is divided into polling subdivisions, and it appears by the assessment roll that a person is assessed in each of two or more polling subdivisions for property sufficient to entitle him to be a voter at a municipal election, the clerk shall enter his name in the list for one subdivision only, and shall insert opposite his name the words "and other premises," and where to the knowledge of the clerk the person resides in one of the subdivisions, his name shall be entered on the list for that subdivision.

Provision  
where  
property  
assessed in  
partly in one  
subdivision  
and partly  
in another.

(14) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to be a voter at a municipal election, but that the property lies partly within one subdivision and partly within another or others, the clerk shall enter the name of such person on the list of voters in only one of the subdivisions in which the property is situate, with the following words added: "Partly qualified in subdivision No. ...." R.S.O. 1927, c. 7, s. 4 (13, 14).

Entry in list  
of person  
assessed as  
freeholder  
or tenant.

(15) Where the word "Owner" or the letter "O," or the word "Tenant" or the letter "T," appears in the assessment roll opposite the name of a person entitled to be entered on the list, such word or letter shall be placed opposite the name of such person.

When assess-  
ment roll to  
be regarded  
as finally  
revised.

Rev. Stat.,  
c. 272.

(16) Where no appeal is made from the court of revision of the municipality to the judge as provided by *The Assessment Act*, the assessment roll shall be deemed to be finally revised and corrected when the time within which an appeal may be made has elapsed, and where an appeal is made, when the assessment roll has been revised and corrected by the judge.

Entries  
of those  
qualified as  
jurors.

(17) The clerk in making out the voters' list shall in a separate column provided for the purpose, write or mark the letter "J" upon the voters' list opposite the name of

every male person over twenty-one and under sixty years of age, who by the roll appears to possess the property qualification required to qualify him to serve as a juror, and such voters' list shall show at or near the end of the second part, the aggregate number of names of persons upon such lists qualified to serve on juries, and in the case of cities and towns such list shall give the same information for each ward. R.S.O. 1927, c. 7, s. 4 (16-18).

(18) In cities and towns the clerk shall in a separate column Entries of separate school supporters. of the voters' list write or mark the letter "S" opposite the name of every person who in the assessment roll is shown as a separate school supporter and also after the name of the wife or husband of every such person if such wife or husband is shown by the roll to be a Roman Catholic. 1933, c. 67, s. 2.

6.—(1) In the case of a municipality in which the assessment roll is not returnable before the 30th day of September the clerk, immediately after the return of the roll, and without waiting for the revision and correction thereof by the court of revision or the judge, shall make out a list of all persons appearing by the roll to be voters, and subject to the provisions of section 5 shall within thirty days after the return of the roll, cause two hundred copies of the list to be printed in pamphlet form, and shall post up and otherwise deal with the list, as provided by section 8. Preparing voters' list in municipalities where roll not returnable before 30th September. Copies.

(2) A larger number of copies may be printed if the council shall so direct. Idem.

(3) The list so made shall be deemed the list of voters which is subject to revision by the judge under section 12, and the provisions of this Act which have reference to the list mentioned in the said section shall apply to the list provided for by this section. Revision of list by county judge.

(4) The time for giving notice of any complaint to be made to the judge under section 13 with respect to a list prepared under this section shall be twenty-one days after the clerk has posted up the list. Time for giving notice of complaints.

(5) The list prepared under this section shall be finally revised, corrected and certified by the judge within one month after the last day for making complaints. Time for completion of lists.

(6) In case the assessment roll of a city or town to which this section applies is not finally revised before the time limited for the final revision, correction and certifying of the list by the judge, and upon appeal from the court of revision Correction of voters' list after revision of roll.

alterations are made by the judge in the assessment roll affecting the right of any person to be entered on the list, the judge shall forthwith after the final revision of the roll, make out a list of such alterations and deliver the same to the clerk, who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the same. R.S.O. 1927, c. 7, s. 5.

Entry of  
P.O. address  
of voter.

7.—(1) The clerk of every township municipality, in making out the list shall insert therein a schedule (Form 1) containing the name, numbered consecutively, of every post office which by the assessment roll appears as the address of any person entered on the list, and in making out the list, shall, according to the form and in the proper column therefor, insert opposite the name of every voter entered on the list the consecutive number which according to the schedule is his post office address, so far as the address appears by the assessment roll, or is within the knowledge or belief of the clerk, but no appeal or complaint on the ground of any error, mistake or omission in or from the list in respect of any matter or thing by this section directed to be inserted therein, shall be made or allowed by or under this Act.

Entry of  
non-resident  
voter in  
polling  
subdivision  
other than  
where  
qualified.

(2) Where it appears by the assessment roll of a township that a person who is not resident in the township is entered upon the assessment roll and assessed for sufficient property to entitle him to vote at municipal elections in the township, such non-resident person at any time after the revision of the assessment roll and before the printing of the voters' list by the clerk, may give notice in writing signed by him and verified by a statutory declaration, to the clerk requesting that the name of such non-resident person be entered on the voters' list for some other polling subdivision in the township than that in which he is so assessed, and thereupon the clerk may enter the name of such non-resident person on the list for any other polling subdivision so designated and after the name of such non-resident person shall enter the property in respect of which he is qualified to vote and the polling subdivision in which the same is situate. R.S.O. 1927, c. 7, s. 6.

Printing and  
distribution  
of list.

8. Immediately after the clerk has made the list, and within forty days in a city and in other municipalities within thirty days after the final revision and correction of the assessment roll, the clerk shall cause at least two hundred copies of the first and second parts of the list, and in a municipality having a population of not more than 3,500, the third part of the list to be printed in pamphlet form, and forthwith shall cause one of the printed copies to be posted up and to be kept posted up in some conspicuous place in his office, and deliver or transmit by post fifteen copies to the clerk of the



peace and two copies of the printed list to each of the following persons,—

- (a) each judge of the county or district court of the county or district to which for judicial purposes the municipality belongs;
- (b) the head and every member of the municipal council of the municipality;
- (c) the sheriff;
- (d) the clerk of the division court within whose division the municipality is partly or wholly situate;
- (e) every postmaster in the municipality;
- (f) in a town, township or village every head teacher of a public or separate school in the municipality or the secretary or secretary-treasurer of the school board by which such teacher is employed;
- (g) the registrar of deeds;
- (h) the clerk of the council of the county in which the municipality is situate;
- (i) the member of the House of Commons for the electoral district in which the municipality or any part thereof lies;
- (j) the member of the Assembly for the electoral district in which the municipality or any part thereof lies;
- (k) every candidate for whom votes were given at the then last election of a member of the House of Commons and for the Assembly, respectively, for the electoral district in which the municipality or any part thereof lies, if such candidate requests the same in writing before the 1st day of July in each year. 1936, c. 64, s. 3, *part*; 1937, c. 81, s. 3 (1).

**9.**—(1) Upon each of the copies of the first part so delivered or sent there shall be a certificate (Form 2), over the name of the clerk, stating that the list is a correct list of all persons appearing by the last revised assessment roll to be voters at provincial and municipal elections, and upon each of the copies of the second part so delivered or sent there shall be a certificate (Form 3), over the name of the clerk, stating

Certificate  
of clerk.



that the list is a correct list of all persons appearing by the last revised assessment roll to be voters at municipal elections only, and such certificates shall contain clauses calling upon all voters to examine the lists, and to take immediate proceedings to have omissions or errors corrected according to law.

**Endorsement of date.** (2) Upon the outside or cover of each of the copies so sent shall be printed or written conspicuously the date of the posting up of the list thus:—

“This list was posted up in the Clerk’s Office  
on the      day of (*fill in date*),      19 .”

R.S.O. 1927, c. 7, s. 8.

**Posting up.** **10.**—(1) The sheriff shall immediately upon receipt of his copies cause one of them to be posted up in a conspicuous place in the court house, the clerk of the peace, upon receipt of his copies, shall cause one of them to be posted up in a conspicuous place in his office, every head teacher of a public or separate school shall post up one copy on the door of the school house and every postmaster shall post up one copy in his post office.

**Duty of secretary-treasurer as to posting list.** (2) Where copies of the list have been sent to the secretary or secretary-treasurer of a school board instead of to the head teacher of a public or separate school, such secretary or secretary-treasurer shall act in place of the head teacher, and shall post up one copy of the list on the door of every school house under the control of the board. R.S.O. 1927, c. 7, s. 9.

**Notice of transmission and posting up of list.** **11.** The clerk shall also forthwith cause to be inserted at least once in a newspaper published in the municipality or in case none is published therein, then in a newspaper published either in the nearest municipality in which one is published, or in the county or district town, a notice (Form 4) signed by him, which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and the date of the first posting up of the list in his office, and the last day for entering appeals. R.S.O. 1927, c. 7, s. 10.

#### REVISION OF FIRST AND SECOND PARTS OF LIST BY COUNTY JUDGE.

**Revision of list by judge.** **12.**—(1) The first and second parts of the lists shall be subject to revision by the judge at the instance of any voter who complains that the names of voters have been omitted from the list, or wrongly stated therein, or that the names of persons who are not entitled to be voters have been entered on either of the said parts and the following provisions of this

Part and of Part II, so far as the same are applicable, shall apply to the revision of the first and second parts of the list.

(2) Upon such revision the finally revised assessment roll shall not be conclusive evidence in regard to any matter. Assessment roll not conclusive.

(3) Upon such revision no person shall be disentitled to have his name entered on the list by reason of his having omitted to make, sign or deliver any statement or affidavit required by *The Assessment Act*, or of his name not having been entered on the assessment roll. Idem. Rev. Stat., c. 272.

(4) The decision of the judge, in regard to the right of any person to vote, or as to the right to enter on or strike from the list the name of any person as a voter, shall be final. Judge's decision final.

(5) In the case of a list for a town, village or township, the judge shall receive as evidence in support of an application to have the name of a person entered on the list, the affidavit of such person or of some other person who has, and deposes that he has, personal knowledge of the matter set forth in the affidavit (Form 5), if the affidavit is made not earlier than the tenth day next preceding the last day for making complaints to the judge and is delivered to the clerk before the time for making complaints has expired. R.S.O. 1927, c. 7, s. 11. When evidence by affidavit receivable.

**13.**—(1) Any voter whose name is entered on or who is entitled to have his name entered on the list for the municipality shall have the right for all purposes of this Act, upon giving notice in writing (Form 6) within twenty-one days after the clerk has posted up the list in his office, to apply, complain or appeal to have his own name or the name of any person corrected in, entered on or removed from the first or second part of the list. R.S.O. 1927, c. 7, s. 12 (1). Who may appeal or complain.

(2) Any person who has acquired the qualification entitling him to vote at a municipal election before the time for giving the notice of appeal to the judge has expired, shall be deemed to be a person entitled to be entered on the list, and if entered thereon, he shall be entered also on the assessment roll, and shall be assessed for his property if not already assessed therefor, without any request on his part, and the judge and clerk shall for the purposes of such assessment have the powers and perform the duties mentioned in section 38. R.S.O. 1927, c. 7, s. 12 (2); 1936, c. 64, s. 4. Persons who have acquired qualification before time for giving notice has expired.

(3) A person whose name is entered on the first or second parts of the list and has before the time for giving notice of appeal to the judge has expired, ceased to possess the qualification. Complaint that person named on list has lost qualification.

fication in respect of which his name was so entered, on complaint being duly made under section 15, shall be deemed to be wrongfully entered on the list and subject to the provisions of section 17, his name shall be removed therefrom. R.S.O. 1927, c. 7, s. 12 (3).

Powers of judge.

**14.** The judge may, without a previous notice of appeal or complaint, on an application made by or on behalf of any person entered on the first or second part of the list, correct any mistake which shall appear to have been made in compiling the list in respect of the name, place of abode, qualification, or of the local or other description of the property of a person entered on the list, and with respect to whose right to be so entered an appeal or complaint is pending before the judge. R.S.O. 1927, c. 7, s. 13.

Proceedings on complaint of errors in list.

**15.**—(1) A voter making a complaint in respect of the list shall, within twenty-one days after the clerk has posted up the list in his office, give to the clerk or leave for him at his residence or place of business, notice in writing (Form 6) of his complaint.

Vacancy in office of clerk.

(2) If the office of clerk is vacant, the notice may be given in like manner to the head of the council of the municipality, and he shall perform all the duties of the clerk.

Procedure as in appeal from court of revision.

(3) The proceedings thereafter by the judge, clerk and the parties respectively, and the powers and duties of the judge, clerk and other persons and the allowances and expenses payable to the judge shall be the same, as nearly as may be, as in the case of an appeal from the court of revision under *The Assessment Act*; but no deposits shall be required. (See Forms 6-11.) R.S.O. 1927, c. 7, s. 14 (1-3).

Rev. Stat., c. 272.

Distribution of list of appeals.

(4) The clerk shall forthwith after posting up the list of appeals in his office, deliver or transmit by post, by registered letter, or by parcel post registered, one copy of the list to the judge and to the clerk of the peace and to each of the persons described in clauses *b*, *i*, *j*, and *k* of section 8. 1937, c. 81, s. 4.

Compelling attendance of witnesses.

**16.**—(1) Any person may obtain from the county or district court of the county or district a subpoena (Form 12), or from the judge an order, requiring the attendance at court for hearing complaints, at the time mentioned in the subpoena or order, of a witness residing or served with the subpoena or order, in any part of Ontario, and requiring the witness to produce any papers or documents mentioned in the subpoena or order, and every witness served with the subpoena or order shall obey the same, provided his expenses

according to the scale allowed in division courts, are paid or tendered to him at the time of service.

(2) Any person in respect of the entry or omission of whose name a complaint is made, shall, if resident within the municipality for or in which the court is held, upon being served with subpœna or order obey the same without being tendered or paid his expenses, and the subpœna or order shall be deemed to have been sufficiently served, Compelling attendance of persons whose right is in question.

- (a) if the subpœna or order is served upon him personally; or
- (b) where he has a known residence or place of business within the municipality, if a copy of the subpœna or order is left for him with some grown-up person at such residence or place of business; or
- (c) where he has a known residence or place of business within the municipality, if a copy of the subpœna or order, at least six days before the sitting of the court, is mailed to him by registered letter, directed to him at the post office address contained in any affirmation made by him under *The Assessment Act*, and where no such affirmation has been made, directed to him at his last known post office address, and also by separate registered letter directed to the post office described as his post office in the voters' list unless such last mentioned post office is his last known post office address, or in the case of cities, towns and villages if no post office is described for him in the voters' list, directed to the post office of such city, town or village; or Rev. Stat., c. 272.
- (d) where he is a farmer's son, if a copy of the order or subpœna is left for him with some person at the residence of the farmer whose son he is.

(3) If a person, whose right to be a voter is the subject of inquiry, does not attend in obedience to the subpœna or order, the judge, in the absence of satisfactory excuse being shown for the non-attendance, or of proof of right of the person to be a voter, may, on the ground of his non-attendance, strike his name off, or refuse to enter his name on the list or impose on him a fine not exceeding \$20, or may do both. Penalty for non-attendance.



*Prima facie*  
evidence  
of certain  
facts.

(4) The fact that the name of the person is entered on the last revised voters' list of the electoral district shall be *prima facie* evidence that he is a British subject and twenty-one years of age.

Number  
of names.

(5) The names of any number of witnesses may be inserted in one subpœna or order. R.S.O. 1927, c. 7, s. 15.

When  
qualification  
incorrectly  
stated.

**17.** If on complaint or appeal to strike off the name of any person on the list it appears that the qualification of such person is incorrectly set forth therein, but that he has the qualification necessary to entitle his name to be entered on the list, the judge shall not strike off the name of such person, but shall make such alterations in the list as are necessary to set forth the proper qualifications of such person, and in so doing may, if the name has not been entered on the proper part of the list, enter the same thereon. R.S.O. 1927, c. 7, s. 16

Time within  
which list to  
be revised.

**18.** The judge shall so arrange and proceed, and fix the sittings of the court, that all the complaints shall be heard and determined, and the first and second parts of the list finally revised, corrected and certified, within two months from the last day for making complaints. R.S.O. 1927, c. 7, s. 17.

Certifying  
list by clerk  
of the peace  
when no  
complaint  
made.

**19.—**(1) If no complaint is made within twenty-one days after the clerk has posted up the list in his office, he shall forthwith deliver either in person or by letter to the clerk of the peace his report (Form 13), and the clerk of the peace shall thereupon certify (Form 14) a sufficient number of copies of the first and second parts of the list as being the last revised list of persons entitled to be voters at elections to the Assembly as well as at municipal elections, and of persons entitled to vote at municipal elections only in the municipality to furnish one copy of such list to each of the following persons,—

- (a) the judge;
- (b) the clerk of the peace;
- (c) the clerk of the municipality;
- (d) the member of the House of Commons for the electoral district in which the municipality or any part thereof lies;
- (e) the member of the Assembly for the electoral district in which the municipality or any part thereof lies; and



- (f) every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly respectively for the electoral district in which the municipality or any part thereof lies. R.S.O. 1927, c. 7, s. 18 (1); 1937, c. 81, s. 5 (1).

(2) The clerk of the peace shall certify each of such copies and shall retain one and shall deliver or transmit by post, one copy to each of the persons mentioned in clauses *a*, *c*, *d*, *e* and *f*, of subsection 1. R.S.O. 1927, c. 7, s. 18 (2); 1937, c. 81, s. 5 (2). Certificate of clerk of the peace.

**20.**—(1) If any complaint is made and allowed by the judge he shall immediately after the list has been finally revised, certify (Form 15) to the clerk a statement of the changes made by him in the list. R.S.O. 1927, c. 7, s. 19 (1). Statement of changes made by judge.

(2) The clerk shall thereupon prepare a sufficient number of copies of the statement of changes made by the judge to furnish one copy for each of the persons mentioned in clauses *a*, *c*, *d*, *e*, and *f* of subsection 1 of section 19, and shall within one week after the revision has been made by the judge transmit or deliver such copies of the statement of changes, together with the certificate of the judge, to the clerk of the peace. Delivery of copies of revised list.

- (a) Such statement shall be made out according to polling subdivisions and shall show the changes made in the list for each polling subdivision. R.S.O. 1927, c. 7, s. 19 (2); 1937, c. 81, s. 6 (1).

(3) The clerk of the peace shall thereupon sign and certify (Form 16) such copies together with a copy of the voters' list received by him from the clerk under the provisions of section 8 and shall return one copy to the clerk and deliver or transmit by registered post one copy to each of the persons mentioned in clauses *a*, *c*, *d*, *e* and *f* of subsection 1 of section 19. R.S.O. 1927, c. 7, s. 19 (3); 1937, c. 81, s. 6 (2). Certificate of clerk of the peace on copies.

(4) Instead of proceeding as provided in subsections 1, 2 and 3, the judge may direct the clerk to prepare a sufficient number of copies of the list as revised by the judge to furnish one copy for each of the persons mentioned in clauses *b*, *c*, *d*, *e* and *f* of subsection 1 of section 19, and the clerk shall within one week after the revision has been made transmit or deliver such copies to the judge, and the judge shall thereupon sign and certify (Form 17) such copies and shall retain one and shall deliver or transmit by post, one copy to each of the persons mentioned in clauses *b* to *f* of subsection 2 of section 19. R.S.O. 1927, c. 7, s. 19 (4), *amended*. Delivery and certification of copies of revised list.

Striking  
off names  
of persons  
dying after  
revision.

**21.**—(1) After the list has been certified and before the nomination day at any municipal election, the judge may, upon the application of a voter, strike from the list the name of any person who has died since the list was certified, and for that purpose the certificate of the Registrar-General or of the division registrar shall be sufficient evidence of death, but if the identity of the person proved to be dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required. R.S.O. 1927, c. 7, s. 20 (1).

Procedure.

(2) The proceedings shall be the same as nearly as may be as those which are prescribed for the revision of the list, and the judge and the officers named in this Act shall have the same jurisdiction as in the case of proceedings to revise the list under this Act. R.S.O. 1927, c. 7, s. 20 (2); 1937, c. 81, s. 7.

Effect of  
certified list.

Rev. Stat.,  
c. 266.

**22.** The certified list shall, under *The Municipal Act* be final and conclusive evidence that all persons named therein, and no others, were qualified to vote at any municipal election at which such list was, or was the proper list to be used except,—

Exceptions.

(a) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified by the judge;

(b) persons who, subsequent to the list being certified, have ceased to be qualified to vote at a municipal election in the municipality to which the list relates and who by reason thereof are, under the provisions of *The Municipal Act*, disentitled to vote; R.S.O. 1927, c. 7, s. 21, cls. (a, b.)

Rev. Stat.,  
c. 266.

(c) persons whose names are entered on the list under the authority of a certificate issued pursuant to subsection 7 of section 56 of *The Municipal Act*. 1933, c. 67, s. 3.

Rev. Stat.,  
c. 266.

Duty of  
municipality  
to provide  
room.

**23.**—(1) The corporation of the municipality within which a court is to be held shall provide a suitable and convenient place, properly furnished, heated and lighted, for the holding of the court, and in default thereof, the judge may hold the court at such place in the county or district as he may deem proper and if the court is held elsewhere than in the court-house of the county or district, the occupant of the building in which it is held may recover from the corporation the sum of \$5 for each day on which the building was used for the purposes of the court.

(2) Every court held in the county or district town shall be held in the court-house, or in such other place as the judge may deem proper. R.S.O. 1927, c. 7, s. 22. Courts in county towns.

**24.** In all proceedings before the judge he shall have all the powers which belong to or might be exercised by him in the county court. R.S.O. 1927, c. 7, s. 23. Powers of judge.

**25.** The clerk of every municipality shall be subject to the summary jurisdiction and control of the judge in the performance of his duty under this Act, in the same manner as an officer of the county court is to the court. R.S.O. 1927, c. 7, s. 24. Clerk.

**26.—(1)** The clerk shall be entitled to the actual and reasonable disbursements necessarily incurred by him in the discharge of the duties imposed upon him by this Act, and shall also be entitled to the following compensation,— Remuneration of clerk in connection with complaints.

1. five cents for the name of every person entered in the list of complaints;
2. five cents for every name entered in any necessary copy of the list of complaints;
3. five cents for every name entered or other correction made by the judge in the voters' list, and in every copy of the list revised;
4. five cents for every name in the statement of change made by the judge in the list;
5. fifteen cents for every necessary notice to any party complaining or complained against;
6. fifteen cents for every mile necessarily and actually travelled by him in effecting service of a notice of appeal or complaint and in attendance at the hearing of complaints or appeals;
7. five dollars for every day's attendance at the sittings of the court.

(2) The assessor shall be entitled to all reasonable disbursements actually incurred by him in the discharge of any duties imposed upon him under this Act and to an allowance of \$5 per diem for every day's attendance at the court and to fifteen cents for every mile necessarily and actually travelled Remuneration of assessor.

by him to attend at the hearing of complaints or appeals.  
R.S.O. 1927, c. 7, s. 25.

Appoint-  
ment of  
constable.

**27.**—(1) The judge shall have power to appoint a proper person to attend as constable at the sitting of the court, and the duties and powers of such person shall be as nearly as may be the same as those of a bailiff at a sitting of a division court.

Constable's  
fees.

(2) The person acting as constable shall be entitled to the following compensation,—

1. for every day's attendance, \$4;
2. for every service of any process or notice, including the receipt and return thereof, and all other duties connected therewith when allowed by the judge, a sum not exceeding twenty cents per mile one way for each mile actually and necessarily travelled to effect such service. R.S.O. 1927, c. 7, s. 26.

Payment  
of fees.

**28.** The compensation to which the clerk, assessor and constable are respectively entitled shall be certified by the judge and paid to the clerk, assessor and constable respectively by the treasurer of the municipality upon the production and deposit with him of the judge's certificate. R.S.O. 1927, c. 7, s. 27.

Report by  
judges as to  
frauds, etc.

**29.** If the judge who holds the court is of the opinion that any person has contravened section 43 or section 45, or that frauds in respect to the assessment or the list have prevailed extensively in the municipality, he shall report the same to the Attorney-General, with particulars as to names and facts. R.S.O. 1927, c. 7, s. 28.

Amend-  
ments.

**30.** The judge may amend any notice or other proceeding upon such terms as he may think proper. R.S.O. 1927, c. 7, s. 29.

Substitution  
of new  
appellant.

**31.** If an appellant or complainant dies or abandons his appeal or complaint, or is found not to be entitled to be an appellant, the judge may in his discretion allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint, upon such terms as the judge may think just. R.S.O. 1927, c. 7, s. 30.

Costs  
occasioned  
by errors.

**32.**—(1) If errors are found in the voters' list on the revision thereof, in the omission of names, the inaccurate



entry of names, or the entry of names of persons not entitled to vote, and it appears to the judge that the assessor or clerk was blamable for any of the errors, the judge may order (Form 18) the assessor or clerk respectively, to pay all costs occasioned by such errors.

(2) In case of errors for which the court of revision is blamable, the judge may order the municipality to pay the costs occasioned by such errors. Order for payment by municipality.

(3) In all cases not herein provided for, the costs shall be in the discretion of the judge. Discretion of judge. R.S.O. 1927, c. 7, s. 31.

**33.** The costs to be allowed on any proceeding under this Act shall be according to the lowest scale of costs in an action in a division court. Scale of costs. R.S.O. 1927, c. 7, s. 32.

**34.** An unsuccessful appellant or complainant shall be liable to pay the witness fees only, unless in the opinion of the judge, the complaint or appeal is frivolous or vexatious, or has not been made in good faith, when the judge may order the appellant or complainant to pay in addition any other costs allowed by section 33. Liability of appellant for costs. R.S.O. 1927, c. 7, s. 33.

**35.** Payment of costs may be enforced by an execution (Form 19) against goods and chattels, to be issued from the division court of the division within which the municipality or part thereof is situate, upon filing therein the order of the judge, and an affidavit showing the amount at which the costs have been allowed and the non-payment thereof. Enforcing payment of costs. R.S.O. 1927, c. 7, s. 34.

#### REFERENCE TO COURT OF APPEAL.

**36.**—(1) In order to facilitate uniformity of decision without the delay and expense of appeals,— Stating case for opinion of court of appeal.

(a) a judge may state a case on any question arising or likely to arise, and may transmit the same to the Lieutenant-Governor in Council, who may immediately refer the same to the Court of Appeal for the opinion of the Court; or

(b) the Lieutenant-Governor in Council may state a case on any such question to the Court of Appeal for a like opinion.

(2) Immediately upon receipt of the case it shall be the duty of the Court to appoint a time and place for hearing Fixing time and place of hearing argument.



argument, of which written notice shall be given by the registrar of the Court of Appeal posting up a copy of the notice in the Central Office at Osgoode Hall, in Toronto, at least ten clear days before the time appointed.

Hearing.

(3) At the time appointed the Court shall hear the argument by such of the counsel present as the Court may think fit to hear, and shall certify to the Lieutenant-Governor in Council the opinion of the Court thereon, and the opinion shall forthwith be published in the *Ontario Gazette*, and a copy of the opinion shall forthwith be sent to the judge of every county and district court. R.S.O. 1927, c. 7, s. 35.

Opinion  
at instance  
of voter.

**37.** The Court of Appeal may also give an opinion on any question at the instance of any voter, if the Court sees fit and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred; but the Court or a judge thereof may require a deposit of money to cover the costs of hearing the question argued by counsel, and may require notice of the proceedings, or any of them, to be given to such person as the Court or judge may direct. R.S.O. 1927, c. 7, s. 36.

#### LIABILITY FOR TAXES OF PERSONS WHOSE NAMES ARE ADDED.

Liability  
of persons  
whose names  
are added  
to roll on  
revision.

Rev. Stat.,  
c. 272.

**38.** If any person who is found entitled to be a voter at municipal elections is not assessed, or is insufficiently assessed, the judge shall enter the name of such person on the roll together with the other particulars required by *The Assessment Act* to be set opposite the name of the person assessed including the value of the property in respect of which the assessment is made, which shall be determined by the judge, and corresponding corrections shall be made by the clerk in the collector's roll. R.S.O. 1927, c. 7, s. 37; 1936, c. 64, s. 6.

#### FAILURE OF CLERK TO PERFORM HIS DUTIES.

Lists not  
vitiating by  
failure of  
clerk to per-  
form duties.

**39.** The non-performance by the clerk of any of his duties under this Act within the times appointed shall not affect the validity of any list. R.S.O. 1927, c. 7, s. 38.

Summary  
application  
to enforce  
performance  
of duties.

**40.**—(1) In case the clerk fails to perform any of his duties, the clerk of the peace shall forthwith apply summarily (Form 20) to the judge to enforce the performance of the same.

Application  
by voter.

(2) The application may also be made by any voter.

(3) The judge shall require (Form 21) the clerk and any other person he sees fit to appear before him and produce the assessment roll, and any documents relating thereto, or to the list, and to submit to examination on oath, and may thereupon make such order and give such directions as he may deem proper.

Proceedings  
by judge.

(4) The clerk shall pay the costs of the proceedings, unless on special grounds the judge shall otherwise order, in which case the judge may direct how and by whom the costs shall be paid.

Liability  
of clerk for  
costs.

(5) The proceedings and order of the judge shall not relieve the clerk from the penalty hereinafter imposed.

Clerk's  
liability to  
penalty.

R.S.O. 1927, c. 7, s. 39.

**41.** If the clerk omits, neglects or refuses to perform any of the duties hereinbefore required of him, for such omission, neglect, or refusal, he shall incur a penalty of \$200.

Penalty  
for neglect  
of duties  
by clerk.

R.S.O. 1927, c. 7, s. 40.

**42.** The wilful alteration of, omission from, incorrect entry in, or falsification of a certified list or copy thereof shall be an offence, and any clerk of a municipality, clerk of the peace or other person who commits such offence, or wilfully permits the same to be committed, shall incur a penalty of not less than \$500 nor more than \$2,000 and in addition thereto may be imprisoned for a period not exceeding three months.

Penalty  
for wilfully  
falsifying  
lists.

R.S.O. 1927, c. 7, s. 41.

#### COLOURABLE TRANSFER OF PROPERTY.

**43.**—(1) No person shall be a party to any instrument or to any verbal arrangement, whereby a colourable qualification is conferred or sought to be conferred upon himself or any other person in order to enable him to become a voter.

Colourable  
transfer of  
property  
in order to  
confer vote.

(2) Any person violating the provisions of this section, beside being liable to any other penalty prescribed in that behalf, shall incur a penalty of \$100.

Penalty.

(3) Any person who induces or attempts to induce another to commit an offence under this section shall incur a like penalty.

Procuring  
commission  
of offence.

R.S.O. 1927, c. 7, s. 42.

#### CREATION OF FALSE VOTES.

**44.** To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in an assessment roll, or claims that another person should be assessed,

Inquiries by  
assessor.

entered or named in an assessment roll so as to entitle him to be a voter, and the assessor has reason to suspect that the person so claiming, or for, or in respect to whom the claim is made, ought not to be so assessed, or so entered or named in the roll, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering, or naming any such person in the assessment roll. R.S.O. 1927, c. 7, s. 43.

Improper  
insertion  
of name  
in roll.

**45.** Any person who wilfully and improperly enters or procures or causes to be entered the name of a person in an assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent to give to a person not entitled thereto, either the right or an apparent right to be a voter, or who wilfully enters or procures or causes to be entered a fictitious name in an assessment roll, or who wilfully and improperly omits, or procures or causes to be omitted the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount with intent to deprive a person of his right to be a voter, shall incur a penalty of \$200. R.S.O. 1927, c. 7, s. 44.

#### RECOVERY OF PENALTIES AND FINES.

Recovery  
of penalties.

**46.** Any penalty mentioned in sections 41 to 45 shall be recoverable upon summary conviction before a magistrate or the judge of a county or district court. R.S.O. 1927, c. 7, s. 45.

#### INSPECTION AND COPIES OF DOCUMENTS.

Right to  
inspect and  
copy assess-  
ment rolls,  
etc.

**47.** A voter, and an agent of a voter may, at all reasonable times and under reasonable restrictions, inspect and take copies of or extracts from assessment rolls, notices, complaints, applications and other documents and proceedings necessary or of use for carrying out of the provisions of *The Municipal Act*, *The Assessment Act*, or of this Act, and the clerk for the said purposes shall accord all reasonable facilities which may be consistent with the safety of the documents, and the rights and interests of all persons concerned, and shall in regard to the matters aforesaid be subject to the direction of the judge. R.S.O. 1927, c. 7, s. 46.

Rev. Stat.,  
cc. 266, 272.

Fees for  
copies of  
lists.

**48.** The fees payable to the clerk of the peace and to the clerk of the municipality for furnishing copies of a list or any part of a list shall be those fixed by the Lieutenant-Governor in Council under the authority of *The Election Act*. R.S.O. 1927, c. 7, s. 47.

Rev. Stat.,  
c. 8.

## PART II.

### PREPARATION OF WARD LISTS.

**49.** Immediately after the return by the assessor of the assessment roll for any ward or subdivision of a ward, and without waiting for the revision and correction of the roll by the court of revision or by the judge, the clerk of every city to which the provisions of this Part apply, shall prepare and print the first and second parts of the voters' list and shall prepare the third part of the voters' list for such ward or subdivision in the manner prescribed by Part I. R.S.O. 1927, c. 7, s. 48.

Preparation of list where roll returned and revised by wards.

**50.**—(1) Forthwith after the preparation and printing of the last of such lists the clerk shall post up and distribute each of the lists for each ward or subdivision in the manner prescribed by Part I, and forthwith after the clerk has posted up the lists in his office, he shall cause a notice to be inserted once a week for three weeks in such daily newspapers published in the city as may be directed by the judge, calling upon persons who are aware of errors or omissions in the lists, or of changes which have been rendered necessary by reason of the death or removal of any person named therein, or by reason of any person having acquired the necessary qualifications as a voter since the return or final revision of the assessment roll for any such ward or subdivision of a ward to give notice of the same, and shall name a time and place at which the judge will hold a court for revising the lists for the whole city.

Posting up and distributing lists.

Notice of court for hearing complaints.

(2) The time for making complaints as to errors or omissions in the lists shall be within fifteen days after the first publication of the notice. R.S.O. 1927, c. 7, s. 49.

Time for making complaints.

**51.** The judge shall so arrange and proceed, and so fix the sittings of the court for hearing complaints against or in respect of the lists that the complaints shall be heard and determined and the lists finally revised and certified in the manner provided by Part I, within ten days after the last day for making complaints and in any case before the 10th day of December. R.S.O. 1927, c. 7, s. 50.

Time for final revision of lists.

**52.** If no complaint respecting any of the lists is received by the clerk within fifteen days after the first publication of the notice the clerk shall forthwith apply to the judge to certify three copies of each of the lists as being the last revised list of voters for the ward or subdivision, and the judge shall certify such three copies and retain one, and

Certifying list where no complaint made.



deliver, or transmit by post, registered, one to the clerk of the peace, and one to the clerk of the municipality, to be kept by him among the records of his office. R.S.O. 1927, c. 7, s. 51.

Procedure  
where com-  
plaints are  
made.

**53.**—(1) If any complaint is made as aforesaid with respect to any of the lists within such period, the judge shall proceed as provided by section 20, and sections 21 and 22 shall apply to the list prepared under this Part.

When  
changes  
made in as-  
sessment roll  
subsequent  
to prepara-  
tion of list.

(2) If the assessment roll is not finally revised before the final revision and certifying of the lists by the judge, and upon appeal to the judge from the court of revision alterations are made in the assessment roll affecting the right of any person to be entered on any of the lists, the judge shall forthwith after the final revision of the roll, make out a list of such alterations and deliver the same to the clerk, who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the same, and a copy of the list of alterations shall be posted up by the clerk in his office. R.S.O. 1927, c. 7, s. 52.

Effect  
of lists as  
completed.

**54.** Subject to the provisions of subsection 7 of section 56 of *The Municipal Act*, the lists as so revised, corrected and certified by the judge shall together form from time to time the last revised voters' list for the city within the meaning of this Act, and *The Municipal Act*, and the date fixed by section 52 as the last day for making complaints to the judge shall be deemed to be the last day for making complaints to the judge within the meaning of any oath prescribed by the said Act and such date shall be inserted in any such oath when the voting is upon a list prepared under this Part. R.S.O. 1927, c. 7, s. 53; 1933, c. 67, s. 4.

Rev. Stat.,  
c. 266.

### PART III.

#### PRINTING AND DISTRIBUTION OF THIRD PART OF VOTERS' LIST AND REVISION OF LISTS FOR PROVINCIAL ELECTION.

Printing  
third part.

**55.**—(1) Where the third part of any voters' list has not been printed but has been deposited with the clerk of the peace, he shall, when directed in writing by the Chief Election Officer, cause the lists so deposited with him to be printed, and shall transmit the same as printed to the clerk of the municipality, who shall post up and distribute the printed copies of the list in the same manner as nearly as may be as



is provided for the posting up and distributing of the printed copies of the first and second parts of the voters' list.

(2) Where the third part is printed by the clerk of the peace under this section it shall not be necessary to include in the said list any particulars except the name of the voter, his place of residence and condition or initials indicating such condition as "married," "unmarried," "widower," "bachelor," *et cetera*. Particulars to be included in list.

(3) The cost of printing shall be borne by the municipality. Cost of printing.

(4) Subject to the provisions of subsection 5, the list to be revised under this Part shall be the first part of the last list finally revised by the judge of the county or district court and the third part of the said list prepared by the clerk of the municipality and filed with the clerk of the peace. List to be revised under this Part.

(5) Where an alphabetical list has been prepared by the clerk of the municipality and printed, distributed and deposited with the clerk of the peace as provided by Part I, but has not been revised by the judge, the board may in its discretion direct the use of the first and third parts of such list, or of either part, in place of the list mentioned in subsection 4. Election board may direct use of unrevised list in certain cases.  
R.S.O. 1927, c. 7, s. 54.

**56.** As soon as conveniently may be after the issue of a writ for the holding of an election to fill a vacancy in the Assembly, or after the dissolution or expiry of the Assembly, the board shall fix the times and places in every municipality at which sittings shall be held by the revising officer for the purpose of hearing complaints as to the right of any person to be entered on the lists as entitled to vote at elections to the Assembly. R.S.O. 1927, c. 7, s. 55. Board to fix time and place of hearing appeals.

**57.**—(1) The board shall appoint from among their number revising officers to hold sittings in each municipality or part of a municipality included in the electoral district in which an election is to be held, for the revision of the lists for the purposes of the election. Appointment of revising officer.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the county or district court or the acting judge of the said court, but where the county or district forms part of a district formed under *The County Judges Act*, a judge of any county or district included therein may be appointed revising officer in a municipality in the county court district. R.S.O. 1927, c. 7, s. 56. County judge to act if practicable. Rev. Stat., c. 102.

Where  
judge not  
available.

**58.** Where, owing to the number of sittings to be held, or from any other cause, the board finds it impracticable for a judge to act as revising officer, the board may appoint one of their number, being a barrister of at least five years standing, or some other fit and proper person having the like qualification to act as revising officer. R.S.O. 1927, c. 7, s. 57.

Notice of  
sittings of  
revising  
officer.

**59.** The board shall cause notice in the prescribed form to be given by publication in at least two newspapers having a general circulation in the county or district, and by posting up such notice in the office of the clerk of the municipality and in at least two conspicuous places in the municipality or portion of the municipality for which the sittings are to be held, stating the name of the revising officer appointed for each municipality, and the name and place of residence or office of the clerk of the revising officer, and the time and place at which the sittings will be held for each municipality and the last day upon which notice of complaint may be given under this Part, and calling upon all persons to examine the voters' list in order to ascertain that their names are correctly entered therein. R.S.O. 1927, c. 7, s. 58.

Clerk of  
municipality  
to be clerk  
to revising  
officer.

**60.** The clerk of the municipality shall act as clerk to the revising officer, but the board may appoint a clerk to any revising officer where the clerk of the municipality is unable to act. R.S.O. 1927, c. 7, s. 59.

Last day  
for making  
complaint.

**61.** The last day for making complaint to the revising officer shall be not less than two clear days and not more than five clear days before the day fixed for holding the sittings, as the board may direct. R.S.O. 1927, c. 7, s. 60; 1933, c. 67, s. 5.

Right to  
apply.

**62.** Every person who, if he remains a resident in the municipality until the day fixed for holding the poll, and is otherwise qualified as provided by this Act, will be entitled to vote at the election, and whose name does not appear upon the first part of the last revised voters' list, as certified by the judge under Part I, or on the third part of the list as prepared by the clerk, shall be entitled to apply by notice of complaint in the prescribed form to the revising officer to have his name entered upon the list. R.S.O. 1927, c. 7, s. 61.

Who may  
give notice  
of complaint.

**63.—(1)** Any person whose name is entered upon the list, or who is entitled to be so entered, shall be entitled to give notice of complaint as to any person whose name has not been entered on the said first or third parts of the list and who, if he remains a resident of the municipality or electoral

district, will be qualified in other respects to vote at the election, or as to any person whose name has been entered on the list and who is not qualified or who has ceased to be qualified or is disqualified under *The Election Act* or otherwise by law prohibited from voting.

Rev. Stat.,  
c. 8.

(2) The notice of complaint shall be in duplicate and the clerk of the revising officer shall keep one copy of every notice of complaint posted up in his office and shall deliver the other copy to the revising officer. R.S.O. 1927, c. 7, s. 62.

Notice of  
complaint  
to be in  
duplicate.

**64.** Subject to the provisions of section 55, the clerk of the peace shall deliver to the board three copies of the first part of the list for the municipality as last revised by the judge in the manner provided by this Act, and three copies of the third part as received by him from the clerk of the municipality, or printed by the clerk of the peace, and the said lists shall be subject to revision upon complaint as hereinbefore provided. R.S.O. 1927, c. 7, s. 63.

Delivery of  
last list by  
clerk.

**65.** The sittings of the revising officer shall be held in the same manner and shall be subject to the same provisions as nearly as may be as the sittings of the judge for the hearing of appeals or complaints under Part I and such provisions shall *mutatis mutandis* apply to the sittings of the revising officer. R.S.O. 1927, c. 7, s. 64.

Procedure  
at sittings.

**66.**—(1) Where a person by whom or on whose behalf notice of complaint has not been given applies to the revising officer to have his name entered upon the list, and no objection to the want of notice is taken, the revising officer upon being satisfied on oath of such person or of someone having personal knowledge of the facts, that he is qualified to be so entered shall enter the name of such person upon the list.

Entering  
name  
without  
complaint  
in certain  
cases.

(2) The name of any person shall not be removed from the list by the revising officer unless the revising officer is satisfied on oath that due notice of complaint has been given to such person or that such person is dead or has removed from the municipality.

Names not  
to be  
struck off  
without  
notice.

(3) The revising officer shall not remove any name from or add any name to the list or make any other changes therein except upon the evidence under oath of some person who has personal knowledge of the facts. R.S.O. 1927, c. 7, s. 65.

Evidence  
required.

**67.**—(1) At the close of the sittings, the revising officer shall certify in the prescribed form the lists as revised by him and the list of changes and corrections in the lists in

Certifying  
and deliver-  
ing lists at  
close of  
sittings.

triplicate, and one copy shall be delivered by the clerk of the revising officer to the clerk of the peace, and one copy shall be retained by the clerk of the revising officer and the third copy shall be delivered by the revising officer to the clerk of the board.

List as revised to be proper list.

(2) The lists as so revised and certified shall be the proper lists to be used in preparing the polling lists for the election. R.S.O. 1927, c. 7, s. 66.

Regulations.

**68.**—(1) The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing the forms, notices and other documents to be used for the purposes of this Part;
- (b) respecting the duties of the clerk of the board, the clerk of the peace and the clerks and other officers appointed or acting under this Part;
- (c) respecting the books and other records to be kept of the proceedings of the board and the revising officer;
- (d) fixing the fees to be payable to the board and the revising officer, clerk of the revising officer and clerk of the peace for services performed, and the witness fees and costs payable under this Part, and prescribing the manner in which the same shall be borne and paid;
- (e) fixing the times within which the lists shall be completed and delivered to the clerk of the peace or the revising officers, and the time within which any duty imposed by this Part with reference to the revision of the lists by the revising officer and as to which no other provision is made, shall be performed;
- (f) for giving directions as to any matter in connection with the preparation or revision of lists under this Part which is not expressly provided for therein; and
- (g) generally for the better carrying out of the provisions of this Part.



(2) Any regulation made by the Lieutenant-Governor in <sup>Force of</sup> Council under this Part shall have the same force as if it <sup>regulations.</sup> had been enacted herein. R.S.O 1927, c. 7, s. 67.

**69.** The fees and expenses of the board, the revising <sup>Fees and</sup> officers and clerks, the clerks of the municipalities and the <sup>expenses,—</sup> clerks of the peace shall be payable by the municipality, and <sup>how paid.</sup> where lists are being revised for more than one municipality in a county or district, such fees and expenses shall be borne by the various municipalities whose lists are subject to revision in proportion to population and shall be payable to the persons entitled thereto by the treasurer of the municipality upon the presentation of accounts therefor certified by the chairman of the board. R.S.O. 1927, c. 7, s. 68.

#### PART IV.

#### PREPARATION AND REVISION OF VOTERS' LISTS FOR PROVINCIAL ELECTIONS IN CITIES AND SEPARATED TOWNS (POPULATION, 10,000 AND OVER) AND IN TOWNSHIPS BORDERING ON LARGE CITIES.

1934, c. 63, s. 2 (1).

**70.** In cities and separated towns having a population of 10,000 or more, and in townships bordering on a city having a population of 100,000 or more, the returning officer as soon as convenient after receiving a writ directed to him for the holding of an election, shall group together the polling subdivisions in such cities, towns and townships in the electoral district into as many combined registration and revising districts as circumstances require, subject to the approval of the election board, and shall prepare descriptions of the boundaries of such districts. 1934, c. 63, s. 2 (2) *part*. <sup>Polling subdivisions to be grouped into districts for registration of voters and revision subject to approval of Board.</sup>

**71.** The returning officer shall forthwith after receipt of the writ of election, appoint in writing for each polling subdivision in the electoral district (Form 22) one or more persons to be enumerators of the voters in each polling subdivision, to compile a list of voters as hereinafter provided, and shall require each of such persons before acting, to take the oath (Form 23). 1934, c. 63, s. 2 (2) *part*. <sup>Returning officer to appoint enumerators.</sup>

**72.** The enumerators when appointed, shall forthwith after taking their oaths, prepare, by a house to house canvass, a complete list, according to Form 24, under headings of names of streets where possible and in alphabetical order with the <sup>Enumerators to prepare lists by house to house canvassing.</sup>



street address and occupation of all persons in the respective polling subdivision in the electoral district for which they have been appointed, who are qualified to vote at the election, and the enumerators in preparing the list shall have reference to and make use of Parts I and III of the last revised voters' list for the municipality. 1934, c. 63, s. 2 (2) *part*.

Certification and disposition of list by enumerators.

**73.** The enumerators immediately after the completion of the lists and not later than four days from the date of their appointment, shall certify each polling subdivision list on oath (Form 25), and deliver the same to the returning officer, and shall prepare at least six copies of such lists duly certified as aforesaid, and shall forthwith post up one copy of each polling subdivision list in the office of the returning officer, and in a conspicuous place in the polling subdivision for which the list was prepared, and in the office of the clerk of the municipality, for public inspection, and shall distribute one copy to each of the representatives of the candidates. 1934, c. 63, s. 2 (2) *part*.

Procedure where complaint made for wrongful entry on list.

**74.** Within four days after the posting up of the polling subdivision lists by the enumerators as provided in section 73, any person whose name has been entered on any of the said polling subdivision lists in the electoral district, may file with the proper clerk of the revising officer appointed for the polling subdivision, a complaint that there has been included in the polling subdivision list as compiled by the enumerators, the name or names of persons who should not be entered therein, and such complaint shall be prepared according to Form 26 and shall set out the reason for complaining and shall be accompanied by an affidavit of the complainant (Form 27), and the same shall be filed with such clerk of the proper revising officer not later than the first day appointed for the sittings of the revising officer. 1934, c. 63, s. 2 (2) *part*.

Revising officer's clerk to notify voter of complaint.

**75.** Upon such complaint and affidavit being received by the clerk of the revising officer, he shall forthwith, and not later than the first day of the sittings of the revising officer, transmit by registered mail addressed to the person objected to, at the address mentioned in the list of voters as compiled by the enumerator, a notice (Form 28), requiring the person objected to, to appear in person or by representative before the revising officer on a day to be named in such notice to answer the complaint made. 1933, c. 67, s. 6 *part*.

Board to fix time and place for registration and revision.

**76.** As soon as conveniently may be after the issue of a writ for the holding of an election to fill a vacancy in the Assembly, or after the dissolution or expiry of the Assembly, the board shall fix the times and places in every municipality

at which sittings shall be held by the revising officers for the purpose of the registration of voters and revising the lists compiled and certified by the enumerators. 1933, c. 67, s. 6 *part.*

**77.** The returning officer shall furnish to the revising officers the original lists for each polling subdivision as prepared, and certified by the enumerators. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

List to be delivered to revising officers.

**78.**—(1) The board shall appoint from among their numbers revising officers to hold sittings in such cities, towns and townships in the electoral district in which an election is to be held for the registration of voters and the revision of the lists as herein provided.

Who to be revising officer,—appointment of.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the county or district court or the acting judge of the said court; but where the county or district forms part of a district formed under *The County Judges Act* a judge of any county or district included therein may be appointed revising officer. 1933, c. 67, s. 6 *part.*

Idem.

Rev. Stat., c. 102.

(3) For the due performance of his duty, a revising officer appointed under this part shall have and possess all the powers of a judge sitting for the hearing of complaints under Part I. 1933, c. 67, s. 12.

Powers of revising officer.

**79.** Where, owing to the number of sittings to be held, or from any other cause, the board finds it impracticable for a judge to act as revising officer, the board may appoint one of their own number, being a barrister of at least five years standing, or some other fit and proper person having the like qualification to act as revising officer. 1933, c. 67, s. 6 *part.*

Where judge not available.

**80.** The returning officer shall report to the board the convenient places he has selected in which the revising officers shall sit, and such places shall be properly furnished, lighted and heated. 1933, c. 67, s. 6 *part.*

Suitable places for sittings to be obtained.

**81.** The board shall cause to be printed a notice of the sittings of the revising officers in such form as may be prescribed by the board, and such notice shall at least five days before the sittings, be posted in adequate numbers and in conspicuous places throughout the areas affected, and where possible, published in all newspapers having a general circulation in the electoral district, and before nine o'clock on the morning of the day of registration and revision an additional five copies

Notice of sittings to be given.

shall be posted up outside of and near to the place of registration and revision. 1933, c. 67, s. 6 *part*.

Appoint-  
ment of  
clerks to  
revising  
officer.

**82.** The board shall appoint one or more clerks to any revising officer as may be necessary, and such appointments shall be made as soon as conveniently may be after the issue of the writ for the election, and notice shall be published in all newspapers having a general circulation in the electoral district of such appointment, and the location of his office. 1933, c. 67, s. 6 *part*.

Oath  
by revising  
officer except  
the judge.

**83.** Every revising officer shall, unless he be a judge, be sworn to the faithful and impartial performance of his duties. 1933, c. 67, s. 6 *part*.

Additional  
revising  
officers  
may be  
appointed.

**84.** If at any time the number of applications for registration and revision of the list, at any registration and revising office, is such that the revising officers cannot promptly dispose of them, the board may appoint additional revising officers, or may provide clerical assistance for the revising officers acting thereat. 1933, c. 67, s. 6 *part*.

Represent-  
atives of  
recognized  
political  
interests  
may be  
present.

**85.** The revising officers shall permit to be present in the place of registration and revision two representatives of each recognized and opposed political interests in the electoral district, but no such representative shall, except with the permission of the revising officer, have any right to take part or intervene in the proceedings. 1933, c. 67, s. 6 *part*.

Who may  
apply to be  
registered  
or have  
correction  
made.

**86.** Any person resident in any polling subdivision included in the registration district, whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such polling subdivision, may apply at the registry office for the registration district to have his name included in the list or to cause the entry in the list relating to him to be corrected. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Application  
to be entered  
on list to be  
signed.

**87.** Every person so applying shall sign an application (Form 29), in which all the information required by the said form shall be sufficiently filled in, either by the applicant personally or by a revising officer at the applicant's request, and before entering the name of any such person in the list of voters or before correcting such list, as the case may require, the revising officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have his name included in the list or to have the list corrected pursuant to his request. 1933, c. 67, s. 6 *part*.

**88.** Whenever the language of the applicant is not understood by the revising officer, an interpreter may be sworn and may act; but in the event of inability to secure an interpreter, the application shall, for the time being, be refused. 1933, c. 67, s. 6 *part*.

Interpreter  
may be  
engaged.

**89.** If it appears to the revising officer that the applicant understands the effect of the statements in the application (Form 29), and that the applicant's name should be included in the list, or that the amendment thereof which he requests should be made, he shall certify accordingly by signing the said application. 1933, c. 67, s. 6 *part*.

Revising  
officer to  
enter name  
when  
satisfied  
applicant is  
qualified.

**90.** If, in the opinion of the revising officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list, or to have the list amended as requested, he shall advise the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1933, c. 67, s. 6 *part*.

Procedure  
where  
application  
refused.

**91.** If any person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected, is unable personally to attend the registration and revising sittings by reason of sickness, disability, or necessary, temporary, unavoidable and *bona fide* absence from the municipality in which the registration area is included, then a relative of such person by blood or marriage, or his employer may, if he has a sufficient knowledge of the facts, appear before the revising officer and complete the application (Form 29), to have such person's name included in the list of voters, or to have the list corrected, as the case may be. 1933, c. 67, s. 6 *part*.

Absence  
through sick-  
ness, etc.,—  
relative  
or employer  
may appear.

**92.** If the relative by blood or marriage, or the employer so appearing, substantiates,—

Evidence to  
be produced  
by relative or  
employer.

- (a) the cause for the non-appearance of the person immediately concerned to be as hereinbefore set forth;
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as such facts are requisite to cause the name of such person to be included in the list, or to cause the list to be corrected, as the case may be, the revising



officer may act upon such application as if the person immediately concerned had appeared in person before him. 1933, c. 67, s. 6 *part*.

Objections  
by persons  
on list to  
names  
appearing  
thereon.

Procedure.

**93.**—(1) Any person whose name appears in the list of voters for any polling subdivision in the electoral district or the registration district for which the revising officer has been appointed, may on the first day of the sittings only make oath before such revising officer giving particulars,—

- (a) of the list upon which his name appears;
- (b) stating that he is qualified to vote in the electoral or registration district; and
- (c) alleging the death, disqualification, or real residence and appearance on another list, of any person on the list for any of the polling subdivisions in the registration district for which such revising officer has been appointed. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Notice to  
person  
objected to.

(2) The revising officer, upon such oath being made before him (Form 27), shall cause to be transmitted by registered mail addressed to the person objected to, at the address mentioned in the list of voters, if any, and also at such other address, if any, as may be mentioned in the oath aforesaid, a notice, (Form 28), requiring the person objected to, to appear in person or by his representative before him or any revising officer who is on duty at such revising office, on a day to be named in such notice, to establish his qualification as a voter, and the revising officer shall transmit with each copy of such notice, a copy of the oath of the voter making the objection. 1933, c. 67, s. 6 *part*.

Additions  
and correc-  
tions to be  
entered on  
the proper  
polling sub-  
division list.

**94.** During the sittings, each revising officer shall, from time to time, enter in the proper polling subdivision list in his registration district as supplied by the returning officer and certified by the enumerator as provided in this Part, names, addresses and occupations of such qualified voters as are added by him to the list, or in respect of which any correction or alteration is made, and shall certify each amendment of the list so made in the proper polling book, and shall certify each amendment of the list so made by appending thereto his initials and a note of the date of the amendment. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Revising  
officer a con-  
servator of  
the peace.

**95.** Every revising officer shall, while sitting as such, be a conservator of the peace and have and possess the same powers as a justice of the peace and he may appoint, if necessary,



constables for the maintenance of order and for the arrest and detention of persons who are guilty of the personation of others, or of attempting to personate others, or who impede or improperly interrupt his proceedings or create a disturbance. 1933, c. 67, s. 6 *part*.

Power  
to appoint  
constables  
in special  
cases.

**96.** The board may at any time relieve any revising officer of his duties and appoint another to perform the same, and any revising officer so relieved shall forthwith upon receiving written notice from the board, of the appointment of a substitute for him, deliver to the board or to such other person as the board may appoint, all lists, notices and other papers in his possession as such revising officer. 1933, c. 67, s. 6 *part*.

Board  
may replace  
revising  
officers.

**97.** At the sittings for revision, the revising officer shall have jurisdiction to dispose and shall dispose,—

Jurisdiction  
of revising  
officer.

- (a) of applications made by persons to have their names included in the lists, or to have the lists corrected;
- (b) of applications by relatives or employers;
- (c) of objections on oath made before a revising officer under section 93 of which a revising officer has given notice as provided in such section;
- (d) of objections to the inclusion of any names in the list of voters of which at least two days notice has been given in writing sent by mail, registered and prepaid, addressed to the person whose name is objected to at the address given for such person in the list of voters; and
- (e) of complaints filed under section 74 with any clerk of any revising officer, notice of which has been given to the party objected to as provided in the said section. 1933, c. 67, s. 6 *part*.

**98.** In the case of any objections made on oath before a revising officer under section 93, of which notice has been properly given by a revising officer under the said section, the onus of establishing his right to have his name included in the list of voters shall be upon the person objected to, and if such person does not, during the sittings on the day for which notice of the hearing of such objection has been given, appear before the revising officer, personally or by representative, or, being present or represented, fails to satisfy the revising officer of his right to have his name retained on the list, the revising

Procedure  
dealing with  
objections to  
name on list.

officer shall strike his name therefrom whether or not the voter by whom the objection was made has appeared before him. 1933, c. 67, s. 6 *part*.

Procedure  
complaint  
made under  
section 74.

**99.** In the case of any objection or complaint to the inclusion of a name in the list of voters of which notice has been given by the objecting person under the provisions of section 74, the onus of establishing the validity of such objection shall rest upon the objecting person, and shall be discharged either by proper evidence that the name of the person objected to should not be included in the list of voters or by the production of a post office certificate of the registration of the package containing the notice of objection, and of the package itself having upon it a record by the post office indicating that the same could not be delivered. 1933, c. 67, s. 6 *part*.

Name not to  
be struck off  
without  
notice.

**100.** The name of any person shall not be removed from the enumerator's list by the revising officer unless he is satisfied on oath that due notice of complaint has been given to such person, or evidence that such person could not be found and the registered notice could not be delivered. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 4.

Evidence  
required.

**101.** The revising officer shall not remove any name from the enumerator's list or make any other changes therein except upon evidence under oath. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 5.

Revising  
officer cor-  
rects the lists  
and certifies  
to same.

**102.**—(1) During the sittings for the revision of the list each revising officer shall correct, and forthwith after their conclusion shall certify the lists of each polling subdivision as finally revised by him, and shall thereupon as soon as possible transmit to the returning officer the said lists as corrected by him. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Lists so  
revised to be  
lists for the  
election.

(2) The lists as so revised and certified shall be the proper lists to be used in preparing the polling lists for the election. 1933, c. 67, s. 6 *part*.

Copies  
of revised  
lists to be  
furnished  
candidates.

**103.** The returning officer shall forthwith cause to be made a sufficient number of copies of the revised lists for each polling subdivision and shall distribute two copies to the representatives of the candidates. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Lists to be  
printed and  
certified.

**104.** The returning officer shall also forthwith cause the lists as finally revised to be printed, and shall have the printing thereof completed not later than the eighth day before polling day, and each printed copy of each list shall have appended thereto a printed certificate by the returning officer that such

print accurately sets out the names, addresses and occupation of the persons referred to in the list as finally revised by the revising officer for the polling subdivision to which the printed list relates. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

**105.** The returning officer shall furnish ten printed copies of the list for each polling subdivision to the representatives of the candidates. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3. Printed copies to be furnished candidates.

**106.** The printed lists for the polling division as so certified by the returning officer, shall be the official list for the polling subdivision to which it relates, but if any material difference between its contents and the contents of the list as finally revised by the revising officer is discovered after the completion of the printing, the returning officer shall furnish a certificate of such error to the deputy returning officer and to the representative of each of the candidates, and the printed list shall for all purposes be taken to have been amended in accordance with such certificate. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3. Printed list the official list.

**107.** Any copies of lists, or of statements of changes or additions in any list required by this Part to be distributed to the candidates, shall be distributed to the representatives of candidates who have been formally nominated as such at the pending election, if any. 1933, c. 67, s. 6 *part*. Distribution of lists to candidates.

**108.—**(1) The Lieutenant-Governor in Council may make regulations,— Regulations.

- (a) prescribing the forms, notices and other documents to be used for the purposes of this Part;
- (b) respecting the duties of the clerk of the board, the enumerators and all other clerks and officers appointed or acting under this Part;
- (c) respecting the books and other records to be kept of the proceedings of the board, the enumerators and the revising officer;
- (d) fixing the fees to be payable to the board, the enumerators and the revising officer and clerk for services performed, the witness fees and costs, if any, the costs of any premises used for the purpose of registration, or revision, and the costs of printing the lists, and any other costs incurred in connection therewith and prescribing the manner in which and by whom the same shall be borne and paid;

- (e) fixing the times in connection with the preparation of any list where no other provision in this Part has been made;
- (f) for giving directions as to any matter in connection with the preparation or revision of lists under this Part, which is not expressly provided for therein; and
- (g) generally for the better carrying out of the provisions of this Part.

Force of regulations.

(2) Any regulation made by the Lieutenant-Governor in Council under this Part, shall have the same force as if it had been enacted herein. 1933, c. 67, s. 6 *part*.

Application of Part.

Rev. Stat. c. 8.

**109.** Notwithstanding anything contained in this Act, or *The Election Act*, the provisions of this Part shall extend and apply to the preparation and revision of voters' lists in all cities and separated towns having a population of 10,000 or more and in all townships bordering on a city having a population of 100,000 or more. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 6.

Who may vote.

**110.** Only those persons who have registered with the registrars and revising officers and appear in the list for their respective polling subdivision, as compiled by the said revising officers in accordance with the provisions of this Part shall be entitled to vote at the election for which the said lists have been prepared. 1933, c. 67, s. 6 *part*; 1934, c. 63, s. 3.

Rev. Stat., c. 8, s. 18, par. 2.

Soldiers franchise allowed.

Part III need not be printed by municipality under this Part.

**111.** Notwithstanding anything in this Part contained, the provisions of paragraph 2 of section 18 of *The Election Act* shall apply. 1933, c. 67, s. 6 *part*.

**112.** In all cities, towns and townships where the provisions of this Part apply, it shall not be necessary for such municipality to print Part III of the voters' list as otherwise provided in this Act. 1933, c. 67, s. 6 *part*.

## PART V.

### LISTS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION.

When lists to be prepared.

**113.** Whenever a vacancy occurs in the Assembly or the Assembly is dissolved or expires, lists shall be prepared in each electoral district comprising territory without municipal organization, including territory in an Indian Reserve, of all persons who are entitled to be entered upon the lists and to vote at an election in the electoral district of which such territory forms a part. R.S.O. 1927, c. 7, s. 69.



**114.**—(1) As soon as conveniently may be after a vacancy occurs in the Assembly or the Assembly is dissolved or expires, the board shall determine the number and places in the territory where a poll is to be established and held, and shall cause a proclamation in such form as may be prescribed by the Chief Election Officer to be posted up at every such place at which a poll will be held, calling upon all persons qualified to vote at the election to attend at such places and times as may be mentioned in the proclamation, in order that their names may be entered upon the lists by the enumerators who will attend for such purpose.

Board to determine polling places and issue proclamation.

(2) Such proclamation shall be so posted up in conspicuous places in such polling districts at least five days before the sittings of the enumerators.

Proclamation to be posted up.

(3) The board may also direct that a copy of Part V be posted up in the same manner as herein provided.

Posting up Part V.

(4) The board shall transmit a copy of the proclamation to the known candidates for the pending election, and if not known, to the member representing the electoral district, and the defeated candidate at the last election. 1933, c. 67, s. 7.

Proclamation to be sent to candidates.

**115.**—(1) The board shall appoint a chief enumerator for the electoral district and the chief enumerator shall appoint one or more assistant enumerators to assist him in the preparation of the voters' lists.

Appointment of chief enumerator and assistant enumerators.

(2) The appointment shall be by writing in duplicate under the hand of the chairman of the board or the chief enumerator as the case may be and shall designate the area within the electoral district in which each assistant enumerator is to prepare the list.

Appointment to be in writing.

(3) One of such duplicates shall be furnished to the chief enumerator or the assistant enumerator, as the case may be, and the other shall be forthwith filed in the office of the clerk of the board and shall be open to inspection at all reasonable times.

Filing of appointments.

(4) A copy of every such appointment, certified by the chairman of the board, or by the chief enumerator as the case may be, shall be forthwith transmitted to the Clerk of the Crown in Chancery, and shall be filed in his office. R.S.O. 1927, c. 7, s. 71.

Copy for Clerk of Crown in Chancery.

**116.** The board may dispense with the services of any chief enumerator or assistant enumerator at any time and

Changes among appointees.



may appoint some other person to the office and may fill any vacancy caused by death, removal or otherwise, or by the neglect of the chief enumerator to make an appointment, and may enlarge, diminish or alter the limits of the territory in which any assistant enumerator is to act as the board may think fit. R.S.O. 1927, c. 7, s. 72.

Oath of office.

**117.**—(1) Every chief enumerator and every assistant enumerator shall, before entering upon his duties, take the oath of office (Form 30) before a judge of the county or district court of the county or district or before a justice of the peace or one of the members of the board, and the oath shall forthwith be transmitted to the clerk of the board, and in the case of the chief enumerator shall be forthwith transmitted by the clerk of the board to the Clerk of the Crown in Chancery. R.S.O. 1927, c. 7, s. 73.

Oath of assistant enumerator.

(2) The chief enumerator shall have power to administer the oath of office to any assistant enumerator. 1934, c. 63, s. 7.

Enumerators to attend for registration.

**118.**—(1) The chief enumerator, under the direction of the board, and his assistant enumerators shall attend at the time and place mentioned in the proclamation for the purpose of the registration of voters and the preparation of the lists.

Application to be entered and procedure for entering names on list.

(2) The provisions of sections 87, 88, 89, 90, 91 and 92 shall, *mutatis mutandis*, apply to the registration of voters by the enumerators. 1933, c. 67, s. 8.

Who may be entered on list.

**119.** Every person who,—

(a) is of the full age of twenty-one years or will be of the full age of twenty-one years before the day fixed for holding the poll at the election;

(b) is a British subject;

Rev. Stat., c. 8.

(c) is not disqualified under *The Election Act* or otherwise by law prohibited from voting;

(d) is a resident of and domiciled in the electoral district;

(e) is and has been continuously, from a date twelve months prior to the day fixed for holding the poll at the election, a resident of and domiciled in Ontario,

shall be entitled to be entered on the list prepared under this Part. R.S.O. 1927, c. 7, s. 76.

**120.** Subject to the direction of the board the chief enumerator shall have the general supervision and direction of the assistant enumerators, and notwithstanding anything in this Act contained, may do and perform any of the duties assigned to an assistant enumerator. R.S.O. 1927, c. 7, s. 77.

General supervision of enumeration.

**121.** The list shall be in several parts, one part for each polling place, and the name of each voter shall be entered in that part, the polling place for which is most convenient for him. R.S.O. 1927, c. 7, s. 79.

Subdivision of lists.

**122.** Every assistant enumerator shall, on completion of the lists, attach thereto an affidavit in the prescribed form, to be made before the judge or a magistrate, and shall forthwith deliver the list to the clerk of the board who shall post up the same in his office. R.S.O. 1927, c. 7, s. 80.

Affidavit of assistant enumerator.

**123.** The non-performance by the assistant enumerator of any of his duties under this Act within the times appointed shall not affect the validity of any list nor shall such list be void for any irregularity, if there has been a substantial compliance with the requirements of this Part. R.S.O. 1927, c. 7, s. 81.

Where irregularities not to void list.

**124.—(1)** The board shall appoint from among their number a revising officer, to hold sittings for the revision of the lists for the purposes of the election.

Appointment of revising officer.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the district.

District judge to act if practicable.

(3) The board may appoint one or more of its members to act in the place of the judge for the purpose of revision and hearing complaints, where owing to the extent of territory to be dealt with or for any other reason the board deems such appointment necessary or expedient. 1933, c. 67, s. 9 *part*.

Where judge not available.

(4) For the due performance of his duty, a revising officer appointed under the provisions of this Part shall have and possess all the powers of a judge sitting for the hearing of complaints under Part I. 1933, c. 67, s. 12.

Powers of revising officer.

(5) The board shall fix the times and places at which sittings shall be held by the revising officers.

Fixing sittings of revising officers.

(6) The board shall cause to be printed a notice of the sittings of the revising officer in such form as may be prescribed by the Chief Election Officer, and such notice shall at least five days before the sittings be posted in adequate numbers

Notice of sittings of revising officer.

and in conspicuous places throughout the areas affected, and where possible, published in any newspaper. 1933, c. 67, s. 9 *part.*

Clerk to  
revising  
officer

**125.** The Board may appoint a clerk to any revising officer appointed under the provisions of this Part and such clerk shall perform, as far as possible, the duties assigned to a clerk of a revising officer appointed under the provisions of Part IV. 1933, c. 67, s. 11.

Application  
of provisions  
of Part IV.

**126.**—(1) The provisions of Part IV dealing with the right of persons to have their names added to such list or corrections made therein by the revising officer, and the procedure relating to complaints against any name entered thereon shall as far as possible apply to this Part, and such provisions shall also apply to the procedure before the revising officer, and such revising officer shall have the same jurisdiction, and perform the same duties assigned to the revising officer appointed under the said Part IV, and the forms and notices and other procedure shall be the same as nearly as may be, and be taken with the same effect as provided in Part IV. 1933, c. 67, s. 10.

Power of  
board in  
certain  
cases.

(2) If for any reason any of the provisions of this Part, or of Part IV which are applicable to this Part, cannot be complied with, then in all such cases the Board shall deal with the same, subject to the approval of the Chief Election Officer. 1934, c. 63, s. 8.

Fees of  
enumerator  
and judge.

**127.**—(1) The chief enumerator and each assistant enumerator for preparing, and the judge for revising the lists required by this Part, shall be entitled to receive the sum of \$5 per day for the time during which he was engaged therein, and all reasonable personal expenses and disbursements.

When  
additional  
sums  
may be  
authorized.

(2) Whenever it appears to the Lieutenant-Governor in Council that the amount provided in subsection 1 is not sufficient remuneration for the services required to be performed, he may authorize the payment of such additional sum for such services as he may consider just and reasonable.

How  
payable.

(3) The fees, allowances and expenses payable under subsections 1 and 2, and the other expenses of preparing lists under this Part shall be certified by the chairman of the board and shall be audited and paid in the manner provided by *The Election Act* with respect to fees and expenses allowed under that Act. R.S.O. 1927, c. 7, s. 84.

Rev. Stat.,  
c. 8

Enumerators  
etc., not to  
be candi-  
dates.

**128.** No chief enumerator or assistant enumerator and no person in whose office the list is deposited under this Part,

shall be a candidate for election to the Assembly at any election at which the list is used. R.S.O. 1927, c. 7, s. 85.

**129.** If a chief or assistant enumerator wilfully neglects, omits, or refuses to perform any of the duties hereinbefore <sup>Penalty for neglect of duty.</sup> required of him, for each omission, neglect, or refusal, he shall incur a penalty of \$200. R.S.O. 1927, c. 7, s. 86.

**130.** The wilful alteration of, omission from, incorrect entry <sup>For misconduct.</sup> in or falsification of any certified list or copy thereof, shall be an offence and any chief or assistant enumerator, clerk of the peace or other person who commits such offence or wilfully permits the same to be committed, shall incur a penalty of not less than \$500 nor more than \$2,000 and in addition thereto may be imprisoned for a period not exceeding three months. R.S.O. 1927, c. 7, s. 87.

**131.** Any penalty mentioned in section 129 or 130 shall be <sup>Recovery of penalties. Rev. Stat., c. 136.</sup> recoverable under *The Summary Convictions Act*. R.S.O. 1927, c. 7, s. 88.

**132.** The Lieutenant-Governor in Council may make <sup>Regulations.</sup> regulations,—

- (a) prescribing forms to be used in carrying out this Part;
  - (b) fixing the fees and charges to be paid and allowed for any services rendered in connection with the preparation and revision of the lists;
  - (c) providing for any matter in connection with the preparation of the lists not expressly provided for in this Part, and generally for the better carrying out of the provisions of this Part. R.S.O. 1927, c. 7, s. 89.
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## SCHEDULE A

## FORM 1.

(Section 5.)

## FORM OF VOTERS' LIST.

Voters' List 19 . Municipality of

## SCHEDULE OF POST OFFICES.

1. North Augusta.  
2. Maitland.

3. Wright's Corners.  
4. Prescott.

POLLING SUBDIVISION NO. 1, COMPRISING, ETC.:—(Giving the Limits.)

## PART I.—Persons entitled to vote at BOTH Municipal Elections and Elections to the Legislative Assembly.

NAME	CONDI- TION	LOT	CON. OR STREET		POST OFFICE ADDRESS	JUR- ORS' COL.
Anderson, Henry.....	M	N W $\frac{1}{2}$ 6	3	Owner	1	
Andrews, John.....	B	W 14 acr. 8	1	F.S.	4	
Archer, Mary.....	MW	2	9	M.F.N.C.	4	
Burton, Samuel.....	W'er	E $\frac{1}{2}$ 17	4	See Subdiv. No.	2	
Clark, Edith.....	W	W $\frac{1}{2}$ 17	4	Tenant	5	

## PART II.—Persons entitled to vote at Municipal Elections ONLY.

NAME	LOT	CON. OR STREET		POST OFFICE ADDRESS
Archer, Henry.....	4	3	M.F.N.C.	2
Burk, Edmund.....	W $\frac{1}{2}$ 17	4	Tenant	3
Jones, David.....	E $\frac{1}{2}$ 17	4	Owner	4

## PART III.—Persons entitled to vote at Elections to the Legislative Assembly ONLY.

NAME	CON- DITION	LOT	CON. OR STREET	POST OFFICE ADDRESS
Acroyd, James.....	M	N $\frac{1}{2}$ 3	4	3
Joseph Amos.....	B	3	7	3
Jones, Elizabeth.....	S	NW $\frac{1}{2}$ 6	8	3
Martin, Clara.....	MW	W $\frac{1}{2}$ 9	5	4
Morris, Edward.....	W'er	E $\frac{1}{2}$ 17	4	4
Smith, Grace.....	W	W $\frac{1}{2}$ 6	9	4

POLLING SUBDIVISION NO. 2, COMPRISING, ETC.:—(Giving the Limits.)

(NOTE: In the Column headed "Condition" insert the initial letter or letters  
"M" (Married); "M.W." (Married Woman); "S" (Spinster);  
"W" (Widow); "W'er" (Widower); "B" (Bachelor), according to  
the circumstances.)



FORM 2.

(Section 9.)

CERTIFICATE TO BE ENDORSED ON PART I OF THE VOTERS' LIST.

I, A. B., Clerk of the Municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, certify that the within (or above) list being the first part of the voters' list constitutes a correct list for the year 19\_\_\_\_, of all persons appearing by the last revised assessment roll to be entitled to vote at both elections for members of the Legislative Assembly and municipal elections in the said Municipality, and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
A. B.,  
Clerk of \_\_\_\_\_

R.S.O. 1927, c. 7, Sched. A, Form 2.

---

FORM 3.

(Section 9.)

CERTIFICATE TO BE ENDORSED ON PART II OF THE VOTERS' LIST.

I, A. B., Clerk of the Municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, certify that the within (or above) list being the second part of the voters' list constitutes a correct list for the year 19\_\_\_\_, of all persons appearing by the last revised assessment roll to be entitled to vote at municipal elections only in the said Municipality and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
A. B.,  
Clerk of \_\_\_\_\_

R.S.O. 1927, c. 7, Sched. A, Form 3.

---

FORM 4.

(Section 11.)

CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST.

Voters' Lists, 19\_\_\_\_, Municipality of \_\_\_\_\_, County of \_\_\_\_\_, Notice is hereby given that I have complied with section 8 of *The Voters' Lists Act* and that I have posted up at my office at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the list of all persons entitled to vote in the said Municipality at municipal elections and that such list remains there for inspection.

And I hereby call upon all voters to take immediate proceedings to have any errors or omissions corrected according to law, the last day for appeal being the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Dated, etc. \_\_\_\_\_  
A. B.,  
Clerk of \_\_\_\_\_

R.S.O. 1927, c. 7, Sched. A, Form 4.

## FORM 5.

(Section 12 (5).)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR NAME TO BE  
PLACED ON REVISED LIST.

I, \_\_\_\_\_, of the Township of \_\_\_\_\_, in the County  
of \_\_\_\_\_, make oath and say:—

1. That I am (or that \_\_\_\_\_ is to the best of my personal knowledge) a British subject of the full age of twenty-one years, and not a citizen or a subject of any foreign country.

2. That I have (or that the said \_\_\_\_\_ has) resided in the Dominion of Canada for the nine months next preceding the day of \_\_\_\_\_, 19\_\_\_\_. (*Fill in the day fixed for beginning to make the assessment roll upon which the voters' list is based*) and that I was (or the said \_\_\_\_\_ was) on the said day a resident of and domiciled in this municipality.

or

2. That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. (*Fill in the last day for making complaint to the county judge*), I will have (or the said \_\_\_\_\_ will have), resided in the Dominion of Canada for the twelve months next preceding that day and that I am (or the said \_\_\_\_\_ is) a resident of and domiciled in this municipality.

3. That I am (or the said \_\_\_\_\_ is) entitled to be entered on the voters' list for the township of \_\_\_\_\_.

4. That I am not (or that the said \_\_\_\_\_ is not) disqualified under *The Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly.

Sworn before me at the  
of \_\_\_\_\_ in the County of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_  
A.D., 19\_\_\_\_.

(Signature Justice of the Peace or Commissioner, etc.)

NOTE.—This affidavit may be made before a justice of the peace, a commissioner for taking affidavits or a notary public.

R.S.O. 1927, c. 7, Sched. A, Form 5.

## FORM 6.

(Sections 13 (1), 15 (1).)

## THE VOTERS' LISTS ACT

## NOTICE OF COMPLAINT OR APPEAL

Polling Subdivision No. .... Ward No. .... Municipality of. ....

(This notice must not apply to the lists for more than one polling subdivision)  
To \_\_\_\_\_, Clerk of the \_\_\_\_\_ for the  
of \_\_\_\_\_

I (Insert full name—No initials), a person entered or entitled to be entered on the voters' list in the above-mentioned municipality in the electoral district of \_\_\_\_\_, complain that the persons whose names are set forth in List No. 1, are entitled to be on the voters' list for the above-mentioned polling subdivision, but are omitted from

the said list; that the persons whose names are set forth in List No. 2 are incorrectly described in the said list; that the persons whose names are set forth in List No. 3 ought not to have been entered on the voters' list for the above-named polling subdivision; and take notice that I intend to apply to the Revising Officer in respect thereof pursuant to the statute in that behalf.

(Signed)

Dated this                      day of                      , A.D. 19                      .

LIST No. 1.

(Showing voters omitted from or not entered on the Voters' List.)

NAMES OF PERSONS	ADDRESS	CONDITION (Here write letters: "M" meaning Married; "B." meaning Bachelor; "W'er" meaning Widower; "M.W." meaning Married Woman; "S." meaning Spinster; "W" meaning Widow; "S.F" meaning Soldier's Franchise.)
<i>Insert full name and do not use initials.</i>		

LIST No. 2.

(Showing persons whose names are wrongly stated in Voters' List.)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	The Errors in State- ment upon Voters' List
<i>Insert name as entered on list.</i>		

LIST No. 3.

(Showing persons whose names ought not to be on Voters' List.)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	Grounds on Which Such Persons' Names Ought Not to be on the Voters' List.
<i>Insert name as entered on list.</i>		

## THE VOTERS' LISTS ACT.

## VOTER'S NOTICE OF COMPLAINT.

*(For use by individual complainants.)*

Electoral District of.....  
 Complaint as to Voters' List for Polling Subdivision No.....  
 in the Municipality of.....  
*(Here insert name of municipality)*

I,.....a person entered or  
*(Full name of complainant)*

entitled to be entered on a voters' list in the above-mentioned municipality and electoral district, hereby complain that my name has been omitted from the list for the above polling subdivision, and appeal to have it entered thereon.

I hereby state and declare that

(1) I am a British subject by birth.  
*(If naturalized, cross out "birth," write in "naturalization" and give date of your certificate. Naturalized citizens must bring their certificates of naturalization with them when their appeals are to be heard.)*

(2) My occupation is.....  
*(In case of women, give occupation and also state whether married, widowed or single.)*

(3) I have resided in Canada since.....

(4) I have been living at.....  
*(Give present street address, or lot and concession number.)*  
 since.....  
*(If you have moved within last five months, give each address at which you have lived in that period and date of moving from each.)*

.....  
 .....

(5) I am over twenty-one years of age.

And take Notice that I intend to apply to the judge in respect thereof, pursuant to the statute in that behalf.

Dated this.....day of....., 19 ..

*(Complainant sign here)*

R.S.O. 1927, c. 7, Sched. A, Form 6.

## FORM 7.

*(Section 15 (3).)*

## CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE.

To His Honour the Judge of the County Court of the County of ..

The Clerk of the Municipality of .. reports that the several persons mentioned in column 1 of the subjoined schedule, and no others, have given to him written notice complaining of errors or omissions in the voters' list for the said Municipality for 19 .., on the grounds mentioned in column 2 of the said Schedule, and that such notices were received respectively at the dates set down in column 3 of the said schedule.

A. B.,  
 Clerk of

Schedule.

1	2	3
NAME OF COMPLAINANT	ERRORS OR OMISSIONS COMPLAINED OF	DATE WHEN NOTICE OF COM- PLAINT RECEIVED BY CLERK

R.S.O. 1927, c. 7, Sched. A, Form 7.

FORM 8.

(Section 15 (3).)

JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND  
APPEALS.

To \_\_\_\_\_, Clerk of the Municipality of the \_\_\_\_\_  
I appoint the \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_, at the  
hour of \_\_\_\_\_ at \_\_\_\_\_ in the said county, for holding a  
court to hear and determine the several complaints of errors and omissions  
in the first and second parts of the said voters' list for the Municipality  
of \_\_\_\_\_ for 19\_\_\_\_.  
I direct that the Assessor for the Municipality shall attend the sittings  
of the said court, and that the assessment roll and the minutes of the Court  
of Revision for the Municipality for 19\_\_\_\_ be produced thereat.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Judge C. C.

R.S.O. 1927, c. 7, Sched. A, Form 8.

FORM 9.

(Section 15 (3).)

NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF  
COMPLAINTS.

Notice is hereby given that a court will be held, pursuant to *The Voters'  
Lists Act*, at \_\_\_\_\_, on the \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ for  
hearing all complaints made against the first and second parts of the  
voters' list for the Municipality of \_\_\_\_\_ for 19\_\_\_\_,  
particulars of which complaints are shown in the subjoined schedule.

Dated, etc.

A. B.,  
Clerk of



*Schedule.*

NAME OF PARTY COMPLAINING	NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE	GROUNDS OF COMPLAINT ALLEGED

R.S.O. 1927, c. 7, Sched. A, Form 9.

## FORM 10.

(Section 15 (3).)

## CLERK'S NOTICE TO PARTY COMPLAINING

*The Voters' Lists Act.*

You are hereby notified that a Court of Revision of the first and second parts of the voters' list, 19 , for the Municipality of will be held by the Judge of the County Court of the County of

, at  
, on the day of 19 , at  
o'clock, at which court all complaints will be heard and determined. A list of complaints is posted up in and you are hereby required to appear at the court; and take notice, that the Judge may proceed to hear and determine the complaints, whether the parties complaining appear or not.

By order of His Honour the Judge of the County Court of the County of

Dated day of , 19 .

To

{ A person complaining of error in the voters' list.

A. B.,

Clerk of the Municipality , and  
of the Court.

R.S.O. 1927, c. 7, Sched. A, Form 10.

## FORM 11.

(Section 15 (3).)

## CLERK'S NOTICE TO PARTY COMPLAINED AGAINST.

*The Voters' Lists Act.*

You are hereby notified that a Court of Revision of the first and second parts of the voters' list, 19 , for the Municipality of will be held by the Judge of the County Court of the County of

, on the                      day of                      , 19                      , at  
o'clock, and you are required to appear at the court, for that  
has complained that your name                      is wrongly omitted (or  
inserted as the case may be) in the said voters' list because (*state matter  
of complaint concisely*). A list of all complaints lodged is posted up in  
; and take notice, that the Judge may proceed to  
hear and determine the said complaint, whether you appear or not.

By order of His Honour the Judge of the County Court of the County  
of                      .

To  
Entered on voters' list.

A. B.,

*Clerk of the said Municipality, and  
of the Court.*

R.S.O. 1927, c. 7, Sched. A, Form 11.

FORM 12.

(Section 16 (1).)



SUBPOENA.

ONTARIO: { GEORGE THE SIXTH, by the Grace of  
County of { God, of Great Britain, Ireland and the  
To WIT: { British Dominions beyond the Seas,  
King, Defender of the Faith, Em-  
peror of India.

To                      Greeting:

We command you, that, all excuses being laid aside, you be and appear  
in your proper person before our Judge of our County Court of the County  
of                      , at                      , on the                      day of                      ,  
19                      , at                      o'clock in the                      noon, at a court appointed,  
and there and then to be held, for hearing complaints of errors in the  
voters' list for 19                      , of the Municipality of the                      of                       
in the County of                      , and for revision of the said voters' list,  
then and there to testify to all and singular those things which you know  
in a certain matter (*or matters*) of complaint made and now depending  
before the said Judge, under *The Voters' Lists Act*, where one                       
is complainant, and which complaint is to be tried at the said court. (And  
*if the witness is required to produce documents*) that you bring with you and  
produce at the said time and place (*Set out the documents to be produced*).  
Herein fail not.

Witness, His Honour                      , Judge of our said Court at                      ,  
the                      day of                      , in the year of our Lord 19                      .

A. B.,  
*Clerk.*

R.S.O. 1927, c. 7, Sched. A, Form 12.

## FORM 13.

(Section 19 (1).)

REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER  
SECTION 19.

To the Clerk of the Peace of the County of \_\_\_\_\_  
I, \_\_\_\_\_, Clerk of the Municipality of \_\_\_\_\_, in the  
County of \_\_\_\_\_, do hereby certify as follows:

That I did, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, post up, and  
for a period of \_\_\_\_\_ days next thereafter did keep posted up in a  
conspicuous place in my office at \_\_\_\_\_, a correct printed copy of the  
first and second part of the voters' list for the Municipality of \_\_\_\_\_  
for 19\_\_\_\_, made in pursuance of *The Voters'*  
*Lists Act*, with the certificate required by section 9 of the said Act endorsed  
thereon.

That I did also deliver or transmit by post, the required number of  
similar printed copies of the list, with my certificate endorsed, to each of  
the persons entitled to the same under section 8 of the said Act.

That I did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, cause to be  
inserted in the newspaper called the "\_\_\_\_\_" published in \_\_\_\_\_  
the notice required by section 11 of the said Act.

That no person gave me nor did I receive, within twenty-one days after  
I had posted up the list in my office, any written notice of complaint or  
intention to apply to the Judge in respect to the list.

And to the best of my knowledge and belief, I have complied with all  
the requirements of the said Act, so as to entitle me to apply for certified  
copies under section 19, and I now apply to you to certify the requisite  
number of the copies of the list received by you as being the revised  
list of voters for the municipality of the said \_\_\_\_\_  
of \_\_\_\_\_ for 19\_\_\_\_.

.....P.O.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Clerk of the Municipality of \_\_\_\_\_

.....P.O.

R.S.O. 1927, c. 7, Sched. A, Form 13;  
1929, c. 23, s. 1; 1937, c. 81, s. 8.

## FORM 14.

(Section 19 (1).)

## CERTIFICATE WHERE NO COMPLAINTS.

A. B., Clerk of the Municipality of the \_\_\_\_\_ having  
certified under his hand that no complaints respecting the first or second  
parts of the list of voters for the said Municipality, for the year 19\_\_\_\_,  
had been received by him within twenty-one days after the first posting up  
of the same; and on application of the Clerk. \_\_\_\_\_  
I, \_\_\_\_\_ Clerk of the Peace of the  
County of \_\_\_\_\_ in pursuance of the provisions of *The*  
*Voters' Lists Act*, certify that the first and second parts of the annexed  
printed list of voters, being one of the copies received by me from the clerk

under section 8 of the said Act, is the last revised list of persons entitled to vote at elections to the Assembly as well as at municipal elections, and that the second parts of the said annexed list is the last revised list of persons entitled to vote at municipal elections only in the said municipality for the year 19 .

Given under my hand at  
this                  day of                  19                  ,  
*Clerk of the Peace.*

R.S.O. 1927, c. 7, Sched. A, Form 14;  
1937, c. 81, s. 9.

## FORM 15.

(Section 20 (1-3).)

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE.

I, \_\_\_\_\_, Judge of the County Court of the County of \_\_\_\_\_, pursuant to section 20 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by me in the first and second parts of the list of voters, for the year 19\_\_\_\_, received by me from the Clerk of the Municipality of the \_\_\_\_\_ of \_\_\_\_\_, pursuant to the provisions of the said Act.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Judge.*

R.S.O. 1927, c. 7, Sched. A, Form 15.

## FORM 16.

(Section 20 (3).)

CERTIFICATE OF CLERK OF THE PEACE WHEN  
COMPLAINTS HAVE BEEN MADE.

I, ..... Clerk of the Peace for the County of ..... pursuant to section 20 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by His Honour, Judge ..... Judge of the County Court of the County of ..... in the first and second parts of the list of voters for the year 19...., as certified by the said Judge.

Dated this.....day of....., 19....

*Clerk of the Peace.*

1937, c. 81, s. 10.

## FORM 17.

(Section 20 (4).)

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE.

I, \_\_\_\_\_, Judge of the County Court of the County of \_\_\_\_\_, pursuant to subsection 4 of section 20 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the first

and second parts of the list of voters for the year 19 , received by me from the clerk of the municipality of the of , according to my revision and correction thereof, pursuant to the provisions of the said Act.

Dated                      day of                      , 19                      Judge.

R.S.O. 1927, c. 7, Sched. A, Form 16.

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FORM 18.

(Section 32 (1).)

ORDER FOR PAYMENT OF COSTS.

*The Voters' Lists Act.*

In the matter of the voters' list for the Municipality of , 19 , on the complaint or appeal of A. B., complaining of the name of C. D. being wrongly inserted in the said list (*or, as the case may be, stating in brief the nature of the complaint.*)

On the proceedings taken before me I find and adjudge that the name of the said C. D. was rightly inserted in the said list (*or was wrongly inserted in the said list*), and order that the said A. B. do pay the said C. D. his costs occasioned by the said complaint (*or, and order that the said C. D. shall pay the said A. B. his costs incident to the said complaint*) (*or, and order that E. F., the Assessor of the said Municipality, do pay the said A. B. his costs incident to the said complaint*) (*or, as the case may be, stating it in brief*), which I fix at the sum of \$ .

Dated                      day of                      , 19                      Judge.

R.S.O. 1927, c. 7, Sched. A, Form 17.

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FORM 19.

(Section 35.)

WRIT OF EXECUTION.

In the                      Division Court in the County of .  
Whereas on the                      day of                      , His Honour,                      Judge of the County Court of the County of                      made his order that C. D. should pay to A. B.                      dollars as and for his costs sustained by him on the trial of a complaint against the voters' lists for the Municipality of                      in the said County, for 19 , (*or as the case may be*) made and prosecuted under the provisions of *The Voters' Lists Act*, which said costs have been fixed and allowed at the said sum. You are hereby required to levy of the goods and chattels of the said C. D., in the said County (not exempt from execution) the said money and your lawful fees, so that you may have the same within thirty days from the date hereof and pay the same over to the Clerk of this Court for the said A. B.

Given under the seal of the Court, this                      day of                      , 19                      .

X. Y.,  
Clerk.

To V. W.,  
Bailliff of the said Court.

R.S.O. 1927, c. 7, Sched. A, Form 18.



## FORM 20.

(Section 40 (1).)

## APPLICATION TO JUDGE AGAINST DELINQUENT CLERK.

Pursuant to section 40 of *The Voters' Lists Act*, I, *A. B.*, Clerk of the Peace for the County of \_\_\_\_\_, (*or, a person entitled to be entered on the voters' list for the Municipality of \_\_\_\_\_, for 19 \_\_\_\_\_*), hereby inform His Honour the Judge of the County Court of the said County, that *C. D.*, Clerk of the Municipality of \_\_\_\_\_, in the said County, has failed to perform the duties required of him as such Clerk by the said Act, in this, that he has not made out the list of voters for 19 \_\_\_\_\_, for the said Municipality, within thirty days after the final revision and correction of the assessment roll thereof (*or, has not delivered or transmitted printed copies of the voters' list for the said Municipality, for 19 \_\_\_\_\_, to \_\_\_\_\_ and \_\_\_\_\_ or to any of them (or, as the case may be, stating in brief the duty not performed)*), according to the requirements of the Act; and I apply to you to enforce the performance of the duties aforesaid.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*A. B.*,  
Clerk of the Peace.

R.S.O. 1927, c. 7, Sched. A, Form 19.

## FORM 21.

(Section 40 (3).)

## SUMMONS.

*The Voters' Lists Act.*

In the matter of the voters' list for the Municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, for 19 \_\_\_\_\_.

Whereas it appears by the application of *A. B.*, the Clerk of the Peace for the said County (*or, a person entitled to be entered on the said list*) made to me, in pursuance of the said Act, that you have failed to perform certain duties required of you by the said Act, in this, that you have not made out the list of voters for 19 \_\_\_\_\_, for the said Municipality, within thirty days after the final revision and correction of the assessment roll thereof (*or, as the case may be, following the application*); and whereas the said *A. B.*, has applied to me to enforce the performance of the duties aforesaid;

You are hereby required to appear before me at \_\_\_\_\_ in \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at the hour of \_\_\_\_\_, and produce before me the assessment roll for 19 \_\_\_\_\_, for the said Municipality, and any documents in your custody, power or control, relating to the assessment roll, or to the list aforesaid; and submit yourself for examination on oath.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

To *C. D.*,  
Clerk of the Municipality of \_\_\_\_\_, \_\_\_\_\_ Judge.

R.S.O. 1927, c. 7, Sched. A, Form 20.

## FORM 22.

(Section 71.)

## APPOINTMENT OF ENUMERATOR.

To (*insert name of enumerator*).  
 Whose address is (*insert address*).  
 and whose occupation is (*insert occupation*).

Know you that in pursuance of the authority given by section 71 of *The Voters' Lists Act*, I, the undersigned, in my capacity as Returning Officer for the Electoral District of ..... do hereby appoint you to be one of the enumerators for Polling Subdivision No. .... of the said Electoral District, to act as such enumerator in accordance with the provisions of Part IV of *The Voters' Lists Act* and to perform and have all the duties and powers imposed upon or exercisable by an enumerator under the said Act.  
 Given under my hand this.....day of.....

.....  
*Returning Officer.*

1934, c. 63, s. 9 *part.*

## FORM 23.

(Section 71.)

## OATH OF ENUMERATOR.

I, the undersigned (*insert name of enumerator*) appointed one of the enumerators for Polling Subdivision No. .... of the Electoral District of ..... do solemnly swear (*or affirm*) that I will act faithfully in my said capacity of enumerator, without partiality, fear, favour or affection, and in every respect according to law. So help me God.

.....  
*Enumerator.*

1934, c. 63, s. 9 *part.*

## FORM 24.

(Section 72.)

## POLLING SUBDIVISION BOOK.

Electoral District.....

Polling Subdivision No.....

Name of Street.....

No.	Name ( <i>family or surname first</i> )	Occupation or addition	Residence Street and No.	Remarks
-----	--	------------------------------	--------------------------------	---------

Names to follow in alphabetical order.

1934, c. 63, s. 9 *part.*

FORM 25

(Section 73.)

ENUMERATOR'S CERTIFICATE OF POLLING SUBDIVISION BOOK

Electoral District.....

Polling Subdivision No.....

I (insert name of enumerator) of the.....of.....

duly appointed an enumerator for Polling Subdivision No.....for

the Electoral District of.....

make oath and say:

This Polling Subdivision Book for Polling Subdivision No....., of the

Electoral District of....., contains a true

and correct list of the names, addresses and occupations of persons

appearing as qualified to vote for the pending Provincial election, as

compiled by me under the provisions of Part IV of *The Voters' Lists*

*Act*.

Sworn before me

at the City of.....

in the County or District of.....

this.....day of.....

Signature of enumerator.

A Commissioner for taking affidavits.

1934, c. 63, s. 9 part.

FORM 26

(Section 74.)

LIST OF COMPLAINTS OF PERSONS WRONGFULLY REGISTERED.

Registrations Complained Against.

Electoral District.....

Polling Subdivision No.....

Name (family or surname first)	Occupation or addition	Residence Street and No.	Reasons for Complaint
--------------------------------------	------------------------------	--------------------------------	-----------------------------

And on the last page insert.

Dated the.....day of....., 19....

Signature of Complainant.

## FORM 27.

(Section 74.)

## AFFIDAVIT AS TO DISQUALIFICATION OF PERSONS REGISTERED.

Electoral District.....

Polling Subdivision No.....

I (*insert name of complainant*), of the.....of.....  
make oath and say:

1. I have been entered as a voter by one of the enumerators in Polling Subdivision No.....for the Electoral District....., and my name appears on the list of voters prepared by the said enumerator as entitled to vote at the pending election.

2. That there have been included in the list of voters prepared by the enumerator for Polling Subdivision No.....in the Electoral District of....., the persons whose names are set out in the attached list of complaints.

3. That I have good reason to believe and do verily believe that the said names should not appear upon the said list of voters for Polling Subdivision No.....in this Electoral District upon grounds which I will produce before the Revising Officer.

Sworn before me at the

.....of.....

in the County or District of.....

this.....day of.....

.....  
*Signature of Complainant.*.....  
*A Commissioner for taking affidavits.*1934, c. 63, s. 9 *part.*

## FORM 28.

(Section 75.)

## NOTICE TO VOTER OBJECTED TO

Electoral District.....

Polling Subdivision No.....

To (*set out name, address and occupation of voter as in list compiled by the enumerator.*)

Take notice that a complaint has been filed with me this day alleging that your name entered upon the list of voters by the enumerator of Polling Subdivision No.....in the Electoral District of.....has been wrongly entered thereon, for the following reason (*set out grounds of complaint*).

If you desire to appear before the Revising Officer to substantiate your right to have your name remain on such list of voters, you must appear before the Revising Officer appointed to revise the list at his sitting held at (*insert the date and hour and place of one of the days appointed for the sittings*).

If you or your representative do not appear before the Revising Officer and establish before him your right to have your name remain on the said list and answer such complaint, the Revising Officer will proceed to hear under oath the evidence as to the complaint, and if satisfied that your name should not remain on such list, he shall strike the same therefrom.

This notice is given pursuant to section 75 of *The Voters' Lists Act*.

Dated at....., this.....day of....., 19...

.....

*Clerk to Revising Officer.*

1934, c. 63, s. 9 *part*.

FORM 29.

(*Section 87.*)

APPLICATION FOR REGISTRATION.

Electoral District of.....

This application relates to

Surname.....  
First name.....  
Occupation.....  
Address and residence.....

*Statement of Facts.*

- 1. The above-named was resident in this Electoral District at (*set out his address*) at the date of the issue of the writ of election.
- 2. The said person is a British subject of the full age of twenty-one years.
- 3. The said person has been resident in Canada during the last twelve months next preceding the day of polling.
- 4. The said person is not disqualified as a voter for any reason.
- 5. The said person is accordingly entitled to vote at the pending election of a member to serve in the Legislative Assembly, for this Electoral District, and is entitled to be entered on the Voters' List as a qualified voter.

*Declaration and Request of Applicant in Person.*

I declare that the above statement of facts is correct, and request that my name be entered in the list of voters for Polling Subdivision No..... in this Electoral District.

Dated this.....day of....., 19...

.....

*Signature of Applicant.*



*Alternative Declaration and Request of Relative or Employer.*

I declare that I am the (insert "relative" or "employer") of the person above described, that I believe the above statement of facts to be correct, and that the person above described is unable to attend in person for the purpose of making this application by reason of sickness or disability, or by reason of necessary, temporary, unavoidable and *bona fide* absence from the municipality.

I request that the name of the person above described be entered in the list of voters for Polling Subdivision No.....in this Electoral District.

Dated this.....day of....., 19...

.....  
Signature of Employer or Relative.

1934, c. 63, s. 9 part.

## FORM 30.

(Section 117.)

## OATH OF ENUMERATOR PREPARING VOTERS' LISTS IN UNORGANIZED TERRITORY.

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_, in the District of \_\_\_\_\_ and Province of \_\_\_\_\_, the Enumerator whose duty it is under *The Voters' Lists Act*, to prepare the voters' lists in and for the Electoral District (or portion of the electoral district, *describing such portion*) of \_\_\_\_\_ in the Province of \_\_\_\_\_ do hereby solemnly swear that I will well and faithfully discharge the duties assigned to me by the said Act without favour or partiality; and that I will in all respects, to the best of my ability, conform to the said Act and to the law. So help me God.

Sworn before me, at the \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_, and Province of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_\_.

(District or County Judge, or as the case may be.)

R.S.O. 1927, c. 7, Sched. A, Form 21.

## CHAPTER 8.

## The Election Act.

## MISCELLANEOUS.

## INTERPRETATION.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Board" shall mean election board as constituted under this Act for a county or provisional judicial district; "Board."
- (b) "Candidate at an election" and "candidate" shall mean and include a person elected to serve in the Assembly, and a person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ, or after the dissolution or vacancy in consequence of which the writ has been issued; "Candi-  
date."
- (c) "Corrupt practice" shall mean and include bribery and an act declared to be a corrupt practice by this or any other Act of this Legislature or recognized as such by the common law of Parliament; "Corrupt  
practice."
- (d) "County" shall include district; "County."
- (e) "County court" shall include a district court; "County  
court."
- (f) "Election court" shall mean and include a court constituted under *The Controverted Elections Act* for the trial of a petition and a summary trial court constituted under that Act; "Election  
court."  
Rev. Stat.,  
c. 11.
- (g) "Form" shall mean a form in the Schedule to this Act or prescribed by regulations made under this Act; "Form."
- (h) "Local municipality" shall mean and include a city, town, township or village, as the case may be; R.S.O. 1927, c. 8, s. 1, cls. (*a-i*). "Local  
municipality."

- "Mariner." (i) "Mariner" shall mean and include any man or woman who is serving in His Majesty's naval forces of Great Britain or Canada, or is serving in any capacity on a mercantile vessel registered at a British port at the time of the issue of a writ for any provincial election; 1929, c. 5, s. 2.
- "Official agent." (j) "Official agent" shall mean the agent appointed by a candidate under section 199;
- "Polling list." (k) "Polling list" shall mean the list of voters furnished to a deputy returning officer by the returning officer in accordance with the provisions of this Act;
- "Pre-scribed." (l) "Prescribed" shall mean prescribed by this Act or by the regulations made under this Act;
- "Regulations." (m) "Regulations" shall mean regulations made under the authority of this Act. R.S.O. 1927, c. 8, s. 1, cls. (j-m).

## ELECTION BOARD.

- Board for every county and district. **2.**—(1) There shall be in every county and in every provisional judicial district a board to be known as the election board.
- Disqualification for election. (2) No person who is a member of the board, or has been engaged as a revising officer, in the preparation of the voters' lists to be used at the election, shall be eligible as a candidate at such election. R.S.O. 1927, c. 8, s. 2.
- How composed. **3.**—(1) The board shall consist of the officers hereinafter mentioned, namely:
- In County of York. (a) In the County of York the board shall be composed of the judges of the county court;
- In every other county and district. (b) In every other county and in every provisional judicial district the board shall be composed of five members as follows: the judge and junior judge of the county or district court, the local registrar of the Supreme Court, the sheriff of the county or district, the clerk of the peace, and where there is no junior judge of the county or district court, the local master of the Supreme Court, or where the local master is also the judge of the county or district, the registrar of deeds, and where

there are more registry divisions than one in the county or district such one of the registrars of deeds as may be designated by the remaining members of the board;

- (c) For the purposes of this section every city shall be taken to form part of the county or district in which it is situate, and the board shall have jurisdiction accordingly. R.S.O. 1927, c. 8, s. 3 (1); 1932, c. 53, s. 2.

(2) Where there is no local registrar of the Supreme Court, the deputy registrar of the Supreme Court, or the deputy clerk of the Crown, according to seniority of appointment shall be a member of the board.

(3) The judge of the county or district court of the county or district, or in his absence, or in case of his inability to act, or in case of a vacancy in his office, the junior judge, or acting judge of the county or district court, shall be chairman of the board.

(4) In case the judge, or junior or acting judge, is unable to act, and, on account of illness or absence, there is no other person who may act in his place, he may appoint, in writing, some other member of the board as chairman *pro tempore*, or, if he is unable or neglects to do so, the remaining members of the board may elect a chairman from among their own number.

(5) The board shall appoint one of their own number or some other person to act as clerk of the board.

(6) Every member of the board, and the clerk, before acting, shall take the prescribed oath before a commissioner for taking affidavits, or a justice of the peace.

(7) Three members of the board shall form a quorum.

(8) Where there is a vacancy in the membership of the board and there is no official to fill the vacancy or where the number of officials mentioned in clause *b* of subsection 1 is not sufficient to complete the board, the board may elect some fit and proper person, or a sufficient number of such persons, to complete the full membership of the board.

(9) Subject to the regulations, where an electoral district includes parts of two or more counties or districts, such electoral district shall, for the purposes of this Act, be deemed to form part of the county or district in which the greater part of such electoral district is situate. R.S.O. 1927, c. 8, s. 3 (2-9).

## CLERK OF THE CROWN IN CHANCERY.

Appoint-  
ment  
of Clerk of  
Crown in  
Chancery.

4. The Lieutenant-Governor in Council shall appoint a Clerk of the Crown in Chancery, and in case of a vacancy in the office, or of the absence or inability to act of the person so appointed, the Clerk of the Assembly shall be *ex officio* the Clerk of the Crown in Chancery, and the person so appointed, or the Clerk, shall discharge all the duties which by any statute, law or usage, ought to be, or have heretofore been, discharged or performed by the Clerk of the Crown in Chancery. R.S.O. 1927, c. 8, s. 4.

## CHIEF ELECTION OFFICER.

Appoint-  
ment  
of Chief  
Election  
Officer.

5.—(1) The Lieutenant-Governor in Council shall appoint some person being a barrister of at least ten years' standing at the Bar of Ontario, and a permanent officer of the Legislature or of the Assembly or otherwise employed in the public service, to be Chief Election Officer and may appoint some other person possessing the like qualifications to be Assistant Chief Election Officer.

Duties.

(2) It shall be the duty of the Chief Election Officer to consult with and advise the boards throughout the Province, and to supervise and instruct the returning officers, deputy returning officers and poll clerks, in the performance of their duties, and where necessary to personally visit and consult with the chairman of the board or the returning officer, with a view to facilitating the preparation of the lists and the carrying out of the provisions of this Act, and the preparation of the lists of voters in territory without municipal organization.

Powers and  
duties of  
Assistant  
Chief  
Election  
Officer.

(3) The Assistant Chief Election Officer may act in the place of the Chief Election Officer at any time and while so acting shall possess the like powers and perform the like duties as the Chief Election Officer.

In cases of  
emergency.

(4) In cases of emergency for which no provision is made the Chief Election Officer may give such directions as he may deem proper and anything done in compliance with such directions shall not be open to question, but the Chief Election Officer shall immediately give notice of any directions so given by him to any candidate or proposed candidate of whom he has knowledge. R.S.O. 1927, c. 8, s. 5.

Clerical  
assistance.

6. The Clerk of the Crown in Chancery and the Chief Election Officer may provide for such clerical and other assistance as may be necessary in the performance of their duties, and the Lieutenant-Governor in Council may authorize



the issue of accountable warrants from time to time for payment of travelling and other expenses, and for remuneration of said officers and of persons employed in the office of the Clerk of the Crown in Chancery and the Chief Election Officer. R.S.O. 1927, c. 8, s. 6.

#### EFFECT OF IRREGULARITIES.

7.—(1) No election shall be declared invalid by reason of,—

- (a) any irregularity on the part of the returning officer Irregularities not affecting result.  
or in any of the proceedings preliminary to the poll;  
or
- (b) a failure to hold a poll at any place appointed for holding a poll; or
- (c) non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or as to limitations of time; or
- (d) any mistake in the use of the Forms contained in the Schedule to this Act;

if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such irregularity, failure, non-compliance or mistake did not affect the result of the election.

(2) An irregularity in the preparation or revision of any assessment roll or voters' list for a municipality shall not be a ground for questioning the validity of an election or a return under *The Controverted Elections Act*, or otherwise. Irregularities in assessment roll or voters' list not to affect election.  
R.S.O. 1927, c. 8, s. 7. Rev. Stat. c. 11.

#### ELECTION INTERRUPTED.

8. If by reason of riot or other emergency, a nomination meeting or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day, at the hour of one o'clock in the afternoon in the case of a nomination meeting and at the hour of eight o'clock in the forenoon in the case of a polling, and continue the same from day to day if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until Provision, when election or polling is not commenced or is interrupted.

the poll has been opened without interruption and with free access to voters for eleven hours in all. R.S.O. 1927, c. 8, s. 8.

#### OATHS AND AFFIDAVITS.

Who may  
take  
affidavits.

**9.**—(1) Except where otherwise provided, any oath or affidavit for the purposes of this Act may be sworn before a justice of the peace, a commissioner for taking affidavits or a notary public.

Oaths, who  
to admin-  
ister.

(2) The returning officer and election clerk shall have power to administer any oath required by this Act with respect to the election, and the deputy returning officer and poll clerk may administer any oath except such as is required to be administered to the returning officer.

No charge  
for admin-  
istering  
oaths, etc.

(3) Every person before whom it is herein provided that an oath or affidavit may be taken, shall administer the same gratuitously. R.S.O. 1927, c. 8, s. 9.

#### AGENTS.

Certain per-  
sons dis-  
qualified  
from acting  
as agents.

Penalty.

**10.** A person who, by section 15, is disqualified and incompetent to vote, or who within eight years has been found guilty by a competent tribunal of a corrupt practice or reported for a corrupt practice by an election court, shall not act as agent for a candidate at an election, and any person violating this enactment shall incur the same penalty as if he had voted at the election. R.S.O. 1927, c. 8, s. 10.

Right of  
candidates  
to undertake  
duties of  
agent.

**11.** A candidate may himself undertake the duties which any agent of his, except his official agent, might have undertaken, if appointed, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act attend, except at the marking of a ballot under section 102. R.S.O. 1927, c. 8, s. 11.

Non-  
attendance  
of agents.

**12.** Where in this Act expressions are used requiring or authorizing any act to be done in the presence of the agents of the candidates, the non-attendance of any agent shall not invalidate the act done. R.S.O. 1927, c. 8, s. 12.

#### PERSONS NOMINATED WITHOUT CONSENT.

Non-  
liability  
of person  
nominated  
without  
consent.

**13.** Nothing in this Act shall impose any liability upon any person nominated as a candidate or declared to be a candidate by others without his consent, unless he has afterwards given his assent to such nomination or declaration, or has been elected. R.S.O. 1927, c. 8, s. 13.

## QUALIFICATION OF CANDIDATE.

**14.** Any person of the full age of twenty-one years and a British subject by birth or naturalization, resident in Ontario, who is not disqualified by *The Legislative Assembly Act*, or by any other Act, shall be qualified to be a candidate. Who may be candidates. Rev. Stat., c. 12.  
R.S.O. 1927, c. 8, s. 14.

## QUALIFICATION OF VOTERS.

## WHO SHALL NOT VOTE.

**15.**—(1) Judges of the Dominion and Provincial Courts, clerks of the peace, Crown attorneys, and magistrates in cities and towns having a population of 5,000 and over, shall be disqualified and incompetent to vote. Who disqualified from voting.

(2) If any person mentioned in this section votes, he shall incur a penalty of \$2,000, and his vote shall be null and void. Penalty.  
R.S.O. 1927, c. 8, s. 15.

**16.**—(1) No returning officer or election clerk shall be entitled to vote; but this provision shall not affect the duty of the returning officer to give a casting vote. Disqualification of certain officers.

(2) No person shall be entitled to vote who, at any time, before or during the election, has been employed as counsel, agent, solicitor or clerk or in any other capacity by a candidate or by any person at or in reference to the election, or for the purpose of forwarding the same, and who has received or expects to receive, either before, during or after the election, from any candidate or from any person, for acting in such capacity, any sum of money, fee, office, place or employment, or any promise, pledge or security therefor. Persons employed by candidates for reward.

(3) Subsection 2 shall not apply to any person who performs any official duty in connection with the election and who receives the fees to which he is entitled. Saving as to election officers. R.S.O. 1927, c. 8, s. 16.

**17.** No person shall be entitled to be entered on the voters' list, or shall vote, who is a prisoner in a gaol or prison undergoing punishment for a criminal offence, or is a patient in a mental hospital, or is maintained in whole or in part as an inmate receiving charitable support or care in a municipal house of refuge or house of industry. Disqualification of convicts mentally ill persons, etc. R.S.O. 1927, c. 8, s. 17.

## WHO MAY VOTE.

**18.** Subject to the provisions hereinafter contained, in an electoral district in which an election to the Assembly is Who may vote.

held, the following persons being entered on the proper polling list, and no others shall be entitled to vote at such election:

Generally.

1. Every man and every woman who, at the time of voting,—

- (a) is of the full age of twenty-one years;
- (b) is a British subject;
- (c) is not disqualified under this Act, or otherwise by law prohibited from voting;
- (d) is and has been for a period of twelve months next preceding the day of polling a resident of and domiciled in Canada;
- (e) in the case of a city, separated town or township to which Part IV of *The Voters' Lists Act* applies, is ordinarily resident in such city, separated town or township at the date of the issue of the writ of election; or
- (f) in the case of an electoral district to which Part IV of *The Voters' Lists Act* does not apply, is and has been ordinarily resident in such electoral district for a period of two months next preceding the day of polling. \* R.S.O. 1927, c. 8, s. 18, par. 1; 1933, c. 13, s. 2; 1934, c. 14, s. 2.

Soldiers' franchise.

2. Every man and every woman who, at the time of tendering a vote,—

- (a) is a British subject;
- (b) is not qualified to vote under paragraph 1;
- (c) is of the full age of twenty-one years;
- (d) is not disqualified under this Act, or otherwise by law prohibited from voting;

whether he or she is or is not an Indian, enfranchised or unenfranchised, or of whole, or part Indian blood, and who

- (e) served in any country in the naval or military forces of Great Britain or Canada, or of any other British possession, or in the naval or military forces of any of the allies

of Great Britain in the late war with Germany;  
and

- (f) is an inmate or patient or employed and resident in any military hospital or institution for the reception, treatment or training of persons who have so served, or in any hospital or institution for the blind or deaf or eleemosynary institution situated in the electoral district

and there shall be entered on every list prepared under this Act opposite the name of any person so qualified, the letters "S.F." (Soldiers' Franchise).

3. In territory without municipal organization every man and every woman who, at the time of tendering a vote,—  
Territory without municipal organization

- (a) is of the full age of twenty-one years;  
(b) is a British subject;  
(c) is not disqualified under this Act, or otherwise by law prohibited from voting;  
(d) is and has been for a period of twelve months next preceding the day of polling, a resident of and domiciled in Ontario;  
(e) is at the time of voting a resident of and domiciled in the electoral district. R.S.O. 1927, c. 8, s. 18, pars. 2 and 3.

*Change of Residence Within Two Months of Polling.*

**19.**—(1) Notwithstanding anything hereinbefore contained a person who was a resident in, and is entered on the list prepared for any polling subdivision or polling place in an electoral district, or who would have been entitled to be so entered had he remained a resident in such electoral district, and who has removed from such electoral district in the course of his ordinary profession, occupation or calling, and has become a resident of and is domiciled in another electoral district and any person ordinarily resident with such first mentioned person as a member of his family or household who has so removed with such first mentioned person, shall be entitled to be entered on the list of voters, in such last mentioned electoral district by the revising officer, or by the judge as the case may be, upon filing with the revising officer, or judge an affidavit (Form 3) and producing such other evidence that he was so entered or entitled to be so  
Removal from one electoral district to another.



entered and that such removal was solely for the purpose of carrying on such profession, occupation or calling, as the revising officer, or judge may deem necessary.

Certificates.

(2) The revising officer, or judge shall give to every person entered upon the list under subsection 1, a certificate in writing (Form 4).

Entry after name of person so added to list.

(3) After the name of every person entered on the list under subsection 1, the revising officer, or judge shall write "entered under R.S.O. 1937, chapter 8, section 19."

Production of certificate at poll.

(4) A person whose name is entered on the list under this section shall not be entitled to vote unless at the time of tendering his vote he produces to the deputy returning officer the certificate mentioned in subsection 2. R.S.O. 1927, c. 8, s. 19.

Application of section.

(5) The provisions of this section shall not apply where voters' lists are prepared as provided for in Part IV of *The Voters' Lists Act*. 1933, c. 13, s. 3.

#### *Occasional or Temporary Absence.*

Occasional or temporary absence when not to disqualify.

**20.** A person may be resident in a municipality within the meaning of this Act, notwithstanding occasional or temporary absence, or absence as

- (a) a member of a permanent militia corps enlisted for continuous service, or a member of the active militia;
- (b) serving in the naval or military forces of Canada or Great Britain or of an ally of Great Britain against the King's enemies, or as a nurse or nursing sister, or in any other capacity with such forces;
- (c) a student in attendance at an institution of learning in the Dominion of Canada;
- (d) a mariner within the meaning of this Act,

and such absence shall not disentitle him to be entered on any voters' list or to vote. R.S.O. 1927, c. 8, s. 20; 1929, c. 5, s. 3.

#### *British Subjects—Naturalization.*

Naturalization of men.

**21.**—(1) A man who was not on the 12th day of April, 1917, a British subject, shall not be entitled to be entered on the list and to vote at an election unless he has since become naturalized as a British subject. R.S.O. 1927, c. 8, s. 21 (1).

(2) A woman shall be deemed to be a British subject by birth or naturalization within the meaning of this Act, so as to entitle her to vote,—

When women to be deemed British subjects.

- (a) if she was born a British subject and is unmarried or married to a British subject, and has not become a subject of any foreign power or a citizen of any foreign state; or
- (b) if she was naturalized in her own right prior to the 12th day of April, 1917, as a British subject, or if she has since become naturalized under the laws of the Dominion of Canada or of Great Britain, and has not become a subject of any foreign power or a citizen of any foreign state;
- (c) if she has become a British subject by the naturalization as a British subject of her parent while she was a minor, and has not become a subject of any foreign power or a citizen of any foreign state;
- (d) If she is married to, or being a widow, is the widow of a British subject and since such marriage has not done any act to cause herself to become a subject of any foreign power or a citizen of any foreign state,

and no woman shall be entitled to be entered on the list of voters or to vote unless so qualified. R.S.O. 1927, c. 8, s. 21 (2); 1935, c. 21, s. 2 (1).

(3) For the purposes of this section the statements of any person claiming to be a British subject shall be *prima facie* evidence of the facts stated. 1935, c. 21, s. 2 (2).

Evidence of facts.

(4) Subsections 1 and 2 shall not apply to any person qualified to vote under paragraph 2 of section 18. R.S.O. 1927, c. 8, s. 21 (3).

Exceptions as to soldiers' franchise.

### *Indians.*

**22.**—(1) A person who is an unenfranchised Indian of whole or part Indian blood and residing or having his domicile among Indians, or on an Indian reserve, shall not be entitled to have his name entered on the list of voters or to vote unless such person has served in any country in the naval or military forces of Great Britain or Canada, or of any other British Dominion or possession, or in the naval or military forces of any of the allies of Great Britain in the late war with Germany and her allies.

Indians—when disqualified.

Special oath.

(2) A person alleged by a candidate or by the representative of a candidate to be an Indian or a person of whole or part Indian blood and disqualified from voting under subsection 1, if required by the candidate or his agent or by the deputy returning officer, shall take one of the following oaths in addition to the oath required to be taken by a voter,—

You swear (*or solemnly affirm*) that you are not an Indian or a person having part Indian blood;

*or at his option*

You swear (*or solemnly affirm*) that you are an enfranchised Indian;

*or at his option*

You swear (*or solemnly affirm*) that you do not reside nor is your domicile among Indians or on an Indian reserve;

*or at his option*

You swear (*or solemnly affirm*) that you served against the King's enemies in the late war with Germany and her allies.

Preparation of lists on reserves.

Rev. Stat., c. 7.

(3) The territory included in an Indian reserve shall be deemed territory without municipal organization, and the lists shall be prepared for such reserve in the manner provided by Part V of *The Voters' Lists Act*. R.S.O. 1927, c. 8, s. 22.

## PROCEEDINGS PRELIMINARY TO ELECTIONS.

### DATES FOR NOMINATION AND POLLING.

Appointment of day for holding.

**23.**—(1) Where an election is to be held the Lieutenant-Governor in Council may appoint a day, not more than sixty nor less than twenty-five days after the date of the writs of election, for the nomination of candidates and the seventh day after the nomination day shall be the day on which polling shall take place where a poll is granted. R.S.O. 1927, c. 8, s. 23 (1); 1933, c. 13, s. 4.

Date to be same in all electoral districts.

(2) In the case of a general election the nominations shall be held on one and the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election.

(3) The writs for a general election shall be dated on the same day. Writs to bear date on same day.

(4) A writ of election shall state the respective days for the nomination and for the polling, and need not name a return day, but shall be returnable forthwith after the execution thereof. R.S.O. 1927, c. 8, s. 23 (2-4). Writs to state dates of nomination and polling.

**24.** Notwithstanding any of the provisions of this Act or the regulations, the Clerk of the Crown in Chancery may immediately after the direction of a writ of election to a person named therein as returning officer, notify such person by telegraphic communication that a writ of election has been directed to him, and such person is hereby empowered to perform any duties prescribed by this Act or *The Voters' Lists Act* although he has not actually received the said writ. 1933, c. 13, s. 5. Notification of appointment as returning officer.

#### FORMS, ETC

##### *Papers and Forms to be sent by Clerk of Crown in Chancery to Returning Officer.*

**25.**—(1) Before any general or other election, the Clerk of the Crown in Chancery shall procure to be printed in conspicuous characters a notice as to secrecy (Form 6) and shall transmit by post to the returning officer of every electoral district, such number of copies as he may deem sufficient to supply every deputy returning officer with five copies, and the deputy returning officer shall post up one copy in a conspicuous place outside the polling place, and one in a conspicuous place within the polling place, and he shall see that they remain so posted up from the opening to the close of the poll. Notices as to secrecy to be sent to returning officers before election.

(2) The notice may be separated from or added to the directions for the guidance of voters in voting (Form 5). R.S.O. 1927, c. 8, s. 24 (1, 2). Notice may be separate.

(3) The Clerk of the Crown in Chancery shall also procure from the King's Printer the forms, other than the proclamation of the nomination, prescribed by this Act, or by Part IV of *The Voters' Lists Act*, for each electoral district in sufficient number for the requirements of the election, the label mentioned in subsection 2 of section 146 and such stationery as may be necessary and shall send the same to the returning officer forthwith after the issue of the writ. R.S.O. 1927, c. 8, s. 24 (3); 1933, c. 13, s. 6. Supply of forms by King's Printer. Rev. Stat., c. 7.

Supply of  
poll books  
and forms

**26.** Immediately after the issue of the writ, the Clerk of the Crown in Chancery shall supply the returning officer with a sufficient number of blank poll books (Form 7) for the purposes of the election having regard to the number of polling places within the electoral district containing the following blank forms:—

1. Commission of deputy returning officer;
2. Oath of deputy returning officer;
3. Commission of poll clerk;
4. Oath of poll clerk;
5. Oath of secrecy;
6. Schedule for “Notes of objections” to ballot papers under section 115;
7. Statement of the poll after counting the ballot papers;
8. Ballot paper account;
9. Oath of deputy returning officer after closing the poll;
10. Oath of poll clerk after closing poll;
11. Certificate of returning officer for outside voters. R.S.O. 1927, c. 8, s. 25.

Transmis-  
sion to  
returning  
officers of  
copies of  
this Act.

**27.** There shall be transmitted to the returning officer with the writ of election, such number of copies of this Act and of any Acts amending the same, as will be sufficient to supply him and each deputy returning officer with one copy at least, and every copy shall contain an alphabetical index. R.S.O. 1927, c. 8, s. 26.

#### RETURNING OFFICERS.

Appoint-  
ment of  
returning  
officer.

**28.** A commission shall not be required for the appointment of a returning officer, but the direction of a writ of election to a person named therein as returning officer shall be a sufficient appointment. R.S.O. 1927, c. 8, s. 27.

Writ for  
elections  
to whom  
addressed.

**29.** Every writ of election shall be addressed to some person, being a British subject of the full age of twenty-one years and a resident of the electoral district or of a local municipality any portion of which is included in the electoral district. R.S.O. 1927, c. 8, s. 28.



**30.** If the person to whom the writ is addressed dies or refuses to act, or is absent or incapacitated or unable from any cause to act, the Lieutenant-Governor in Council may appoint some other person to be returning officer. R.S.O. 1927, c. 8, s. 29.

**31.** If a writ has been issued to a person whose appointment is afterwards superseded or to a person in whose stead a returning officer has been appointed under the provisions of section 30, a new writ may be issued or the new returning officer may act under the writ already issued as if the same had been addressed to him, and the validity of the proceedings had or taken under the first appointment shall not be affected by the new appointment; but the new returning officer may appoint a new election clerk and new deputy returning officers, if he thinks fit, in place of the persons, if any, appointed to such offices by the person previously named as returning officer. R.S.O. 1927, c. 8, s. 30.

**32.—(1)** None of the persons hereinafter mentioned shall be appointed or shall act as returning officer, deputy returning officer, election clerk or poll clerk,—

- (a) Members of the Executive Council;
- (b) Members of the Parliament of Canada or of the Assembly;
- (c) Ministers, priests or ecclesiastics under any form or profession of religious faith or worship;
- (d) Judges of Dominion or Provincial Courts;
- (e) Persons who have served as members of the Assembly in the session next preceding the election, or in the then present session, if the election takes place during a session of the Assembly;
- (f) Persons who have at any time been found guilty by a competent tribunal of or reported by an election court for corrupt practices.

(2) If any such person acts as returning officer, deputy returning officer, election clerk, or poll clerk, he shall incur a penalty of \$200.

(3) A contravention of this section shall not affect the validity of the election. R.S.O. 1927, c. 8, s. 31.

**33.** None of the persons hereinafter mentioned shall be obliged to act as returning officer, deputy returning officer, election clerk, or poll clerk,—

- (a) Physicians and surgeons;
- (b) Millers;
- (c) Postmasters;
- (d) Persons sixty years of age or upwards;
- (e) Persons who have previously served as returning officers. R.S.O. 1927, c. 8, s. 32.

Penalty  
for refusal  
to act.

**34.** Every person not disqualified by this Act, who refuses to perform the duty of returning officer after having received the writ of election, shall incur a penalty of \$200; unless, having a right to claim the exemption conferred by section 33, he has claimed exemption by letter setting forth the grounds of such exemption and forwarded to the Clerk of the Crown in Chancery within two days next after the receipt of the writ of election. R.S.O. 1927, c. 8, s. 33.

#### PROCEEDINGS ON THE RECEIPT OF THE WRIT.

Endorse-  
ment on  
writ.

**35.** The returning officer shall, on receiving the writ, forthwith endorse thereon the date of its receipt. R.S.O. 1927, c. 8, s. 34.

#### *Oath of Returning Officer.*

Oath of  
returning  
officer.

Penalty.

**36.** The returning officer shall, before the nomination day, take and subscribe the oath (Form 8) and a returning officer who refuses or neglects to take and subscribe the oath, shall incur a penalty of \$40. R.S.O. 1927, c. 8, s. 35.

#### *Proclamation by Returning Officer.*

Proclama-  
tion by  
returning  
officer.

**37.**—(1) The returning officer forthwith after the receipt of the writ shall by proclamation under his hand in the English language (Form 9) declare,—

- (a) the place and time fixed for the nomination of candidates;
- (b) the day on which the poll for taking the votes of the voters is to be held in case a poll is granted;
- (c) the polling places fixed by him and the territorial limits to which they respectively apply;
- (d) the time when and the place where he will add up the number of votes given to the several candidates. R.S.O. 1927, c. 8, s. 36 (1).

(2) The proclamation shall be posted up in the electoral district at least five days before the nomination day, neither the last day of posting up nor the nomination day being reckoned. R.S.O. 1927, c. 8, s. 36 (2); 1933, c. 13, s. 7.

When  
proclama-  
tion to be  
posted up.

**38.** The place for the nomination of candidates shall be the court house, city or town hall or some other public or private building in the most central or the most convenient place for the majority of the voters of the electoral district, and the time appointed for the nomination of candidates shall be from one o'clock until two o'clock in the afternoon of the day fixed for that purpose. R.S.O. 1927, c. 8, s. 37.

Place of  
nomination.

**39.—**(1) The proclamation shall be posted up,—

Places of  
posting up  
proclama-  
tion.

(a) at every post office in the electoral district; and

(b) at least at one other place in every polling subdivision in the electoral district;

(c) in a city or town divided into wards, at the city or town hall and in some other public place in each ward in the electoral district;

(d) in other local municipalities, at the town hall or other place where the meetings of the municipal council are held.

(2) In territory without municipal organization the proclamation shall be posted up in some public place in the neighbourhood of each place at which a poll is to be held.

In territory  
without  
municipal  
organization.

(3) The proclamation shall be posted up in a conspicuous place and the returning officer may post the same on public or private property as he deems necessary. R.S.O. 1927, c. 8, s. 38.

May be  
posted on  
public or  
private  
property.

**40.** A returning officer refusing or neglecting to cause the proclamation to be posted up as prescribed by this Act shall incur a penalty of \$200. R.S.O. 1927, c. 8, s. 39.

Penalty.

**41.—**(1) Where from any cause the proclamation could not be posted up so as to leave the required delay between the posting up and the nomination day or the returning officer is unable to hold the nomination on the day fixed for that purpose, he may by proclamation under his hand fix another day for the nomination which shall be the nearest day practicable, after allowing the required delay between the posting up of the proclamation and the nomination day.

Unforeseen  
delays pro-  
vided for.

Form of  
proclama-  
tion.

(2) The proclamation shall be in the like form and shall be posted up in the like manner as provided in section 37. R.S.O. 1927, c. 8, s. 40 (1, 2).

Polling day.

(3) The polling day shall be the seventh day after nomination day. R.S.O. 1927, c. 8, s. 40 (3); 1933, c. 13, s. 8.

Postpone-  
ment, report  
as to cause.

(4) The returning officer shall, with his return, make to the Clerk of the Crown in Chancery, a report of the cause which occasioned the postponement of the election. R.S.O. 1927, c. 8, s. 40 (4).

Communi-  
cation with  
Pelee Island  
and Amherst  
Island may  
be by  
telephone.

**42.** Where an election for an electoral district of which Pelee Island or Amherst Island forms part is to be held between the months of October and April, and the Lieutenant-Governor in Council is satisfied that communication and travel between Pelee Island or Amherst Island and the mainland is likely to be dangerous or to be interrupted he may direct that all necessary instructions and information relating to the election be transmitted by telephone, including information as to the number of votes given for each candidate and as to all other matters relating to the election, so as to enable the returning officer to return the candidate having the majority, or to make such other return as the case requires, and the Lieutenant-Governor in Council may make such order for carrying out the provisions of this section as to him may seem proper. R.S.O. 1927, c. 8, s. 41.

### *Election Clerk.*

Appoint-  
ment of an  
election  
clerk.

**43.**—(1) The returning officer, by a commission under his hand (Form 10), shall, before nomination day, appoint a person having the like qualifications as are required in the case of a returning officer to be his election clerk.

Case of  
death or  
default of  
election  
clerk pro-  
vided for.

(2) The returning officer may at any time during the election in the same manner appoint another election clerk if the one so appointed dies or refuses or neglects or is unable to perform his duties.

Duties of  
election  
clerk.

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer. R.S.O. 1927, c. 8, s. 42.

Oath of  
election  
clerk.

**44.** The election clerk shall, before entering upon his duties, take and subscribe the oath (Form 11). R.S.O. 1927, c. 8, s. 43.



**45.** A person appointed election clerk, who refuses to accept the office, or who, having accepted it, refuses or neglects to take and subscribe the oath, or to perform the duties of an election clerk, shall incur a penalty of \$40. R.S.O. 1927, c. 8, s. 44. Penalty for refusing to act.

**46.** The appointment and oath of an election clerk shall be either endorsed on or attached to the writ. R.S.O. 1927, c. 8, s. 45. Appointment and oath to be on writ.

**47.** An election clerk whose duty it becomes to act in the stead of the returning officer shall be subject to the same penalties as the returning officer for his neglect or refusal to perform the duties and to all the obligations of that office, in like manner as if he had been appointed returning officer, and shall not be required to possess any other qualification or to take the oath (Form 8). R.S.O. 1927, c. 8, s. 46. Duties and liabilities when acting as returning officer.

### *Ballot Boxes.*

**48.**—(1) The returning officer shall, on receiving the writ, provide as many ballot boxes as there are polling places within the electoral district. Ballot boxes to be furnished.

(2) The ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballot paper can be deposited therein, and cannot be withdrawn without unlocking the box. How made.

(3) If the returning officer fails to provide the ballot boxes, he shall incur a penalty of \$100 in respect of every ballot box which he fails to provide. R.S.O. 1927, c. 8, s. 47. Penalty on failure to furnish boxes.

**49.** The property in the ballot boxes, ballot papers, marking instruments, books, papers and documents procured for or used at an election, shall be in His Majesty. R.S.O. 1927, c. 8, s. 48. Property of the Crown.

**50.** Where it becomes necessary to use the ballot boxes, the returning officer, two days at least before the polling day, shall deliver one ballot box to every deputy returning officer. R.S.O. 1927, c. 8, s. 49. Delivery of ballot boxes to deputy returning officers.

**51.** A deputy returning officer who has not been supplied with a ballot box within the time prescribed in section 50, shall forthwith procure one to be made. R.S.O. 1927, c. 8, s. 50. Duty of deputy returning officer as to ballot box.



Return of  
ballot boxes  
to municipal  
clerks and  
clerk of  
peace.

**52.** After the close of the election the returning officer shall deliver the ballot boxes used in the election to the several clerks of the municipalities in the electoral district and to the clerk of the peace in the case of territory without municipal organization, and the boxes shall be preserved by them for use at future elections. R.S.O. 1927, c. 8, s. 51.

### *Polling Subdivisions.*

When re-  
turning  
officer to  
make  
division.

**53.**—(1) In the case of failure of the council to divide a municipality into polling subdivisions, the returning officer shall make the division.

When  
council  
has divided  
municipality.

(2) Where the council has divided the municipality into polling subdivisions the returning officer shall not be required to make any change in the boundaries of a polling subdivision. R.S.O. 1927, c. 8, s. 52.

### *Polling Places.*

Polling  
places in  
each polling  
subdivision.

**54.**—(1) Subject to the provisions of subsection 3 of this section, and sections 55 and 56, the returning officer, on receiving the writ, shall fix and provide at least one polling place for each polling subdivision in the most central or most convenient place for the voters.

(a) Where the board approves, such polling place may be provided outside the limits of the polling subdivision.

Additional  
polling  
places in  
discretion of  
returning  
officer.

(2) A returning officer may in his discretion, grant such additional polling places in any polling subdivision as the extent of the subdivision and the remoteness of any body of its voters from the polling place render necessary.

Union of  
polling sub-  
divisions  
in cities.

(3) The returning officer may unite two or more adjoining polling subdivisions and fix one polling place for the united subdivisions.

Polling  
place not to  
be a tavern.

(4) The building in which the poll is held shall not be a tavern or place of public entertainment, and there shall be free access to the poll for every voter.

Additional  
polling  
places.

(5) Where a polling subdivision contains a greater number of voters than may conveniently vote at one polling place, the returning officer, with the approval of the board, may provide one or more additional polling places in the same building or near to one another, having regard to the total number of voters in the polling subdivision.

(6) Where there are two or more polling places in a sub-division each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, that is to say, from A to M inclusive, and from N to Z inclusive, or as may be determined by the returning officer.

Division to be according to initial letter of voters' names.

(7) Every voter the initial letter of whose surname is included within the letters of the alphabet designating a polling place shall vote in the polling place so designated. R.S.O. 1927, c. 8, s. 53 (1-8).

Where voters to vote.

(8) The returning officer shall appoint a deputy returning officer for each such polling place, and deliver to him in due time a polling list to be prepared by the clerk of the peace or the clerk of the municipality as the case may be in the manner hereinafter provided, containing the names of all voters on the proper list of voters for the polling subdivision; provided that where the lists are prepared under the provisions of Part IV of *The Voters' Lists Act*, the returning officer shall deliver to each deputy returning officer for each polling division such list so prepared and certified to be the official list for the polling division. R.S.O. 1927, c. 8, s. 53 (9); 1933, c. 13, s. 9.

Appointment of deputies for additional polling places.

Polling lists under Part IV, *The Voters' Lists Act* to be furnished. Rev. Stat., c. 7.

(9) Where a village has been incorporated including portions of two townships lying in different electoral districts, the board of the county or district in which the village or the larger part of the village is situate shall divide the village into two polling subdivisions and shall include the territory in each electoral district in a polling subdivision, and the board may give such directions to the clerk of the village as it may deem necessary for the separating of the names of the voters in one polling subdivision from the names of voters in the other and for distinguishing between the two classes of names in the voters' list of the village, and the clerk of the peace shall prepare a separate polling list for each of such polling subdivisions. R.S.O. 1927, c. 8, s. 53 (10).

Where village includes portions of two townships in different electoral districts.

**55.**—(1) The returning officer shall provide a proper building for a polling place and shall see that the same is furnished with light and heat and such other accommodation and furniture as may be required.

Returning officer to provide polling places.

(2) A polling place may be situate in a school house, hall or other public building or on private property, or the returning officer may purchase or construct tents or portable booths or moveable structures and without charge may set up or

Where polling places may be situate.

erect the same in any street, lane or vacant lot. R.S.O. 1927, c. 8, s. 54 (1, 2).

Number  
and location  
of polls.

(3) The number and location of the polling places shall in all cases be subject to the approval of the board and the chairman of the board shall certify in writing that the number of polling places and their location are necessary and proper.

Cost of  
unnecessary  
poll.

(4) Where it is found that the returning officer has established a polling place which is unnecessary to accommodate the voters and that such polling place has not been approved by the board, the cost to the Province of establishing such poll and the conduct of the polling thereat shall be borne by the returning officer and deducted from his fee. 1929, c. 5, s. 4.

Amount  
payable  
for polling  
places.

(5) The sum of \$8 for every building or part of a building used as a polling place and an additional sum of \$4 for every additional polling place situate in the same building shall be payable by the returning officer to the persons entitled thereto. R.S.O. 1927, c. 8, s. 54 (4).

#### *Polling Places at Soldiers' Hospitals.*

Polling  
places on  
premises of  
hospitals,  
etc.

**56.**—(1) Wherever in any electoral district there is situate a home or hospital or other institution for the reception, treatment or vocational training of disabled soldiers or sailors, a polling place shall be provided in such institution or upon the premises, and for the purpose of polling the institution shall be deemed to be a polling place and every inmate or other person resident in such institution, who is entered on the polling list, shall vote at such polling place.

Incapaci-  
tated  
patients or  
inmates.

(2) Where a patient or other inmate of such institution is bed-ridden or is unable to walk, it shall be lawful for the deputy returning officer and poll clerk with the candidates or their agents to attend upon such person for the purpose of receiving his ballot, but a candidate shall not be present where the ballot of any such voter is marked under section 100. R.S.O. 1927, c. 8, s. 55.

#### *Voting Compartments.*

Compartment  
for  
voters to  
mark  
ballots.

**57.** Every polling place shall be furnished with compartments in which a voter may mark his ballot paper without any other person being able to see how the same is marked, and it shall be the duty of the returning officer and the deputy returning officer respectively to see that a sufficient number of compartments is provided at each polling place. R.S.O. 1927, c. 8, s. 56.

## NOMINATION.

## PROCEDURE BY RETURNING OFFICER.

58.—(1) The returning officer, at the time and place fixed for the nominations shall, in the English language, make or cause to be made, in the presence of the voters there assembled, a proclamation (Form 12), and read or cause to be read publicly, the writ of election, and his commission as returning officer when he has been appointed by commission, and shall then call for nominations or further nominations to be made in writing in the manner hereinafter set out.

Proceedings  
of the  
returning  
officer on  
the day of  
nomination.

(2) The nomination shall be by writing (Form 13), signed by at least one hundred duly qualified electors of the electoral district, and stating the name, residence and legal addition, occupation or description of the person proposed in such manner as sufficiently to identify him, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election.

Nomination  
to be in  
writing.

(3) Each candidate shall be nominated by a separate nomination paper and a duly qualified elector may sign the nomination papers of different candidates.

Separately  
for each  
candidate.

(4) The nomination paper may be produced to and filed with the returning officer at the time and place fixed by the proclamation, or on either of the two days next preceding that on which the meeting for the nomination of candidates is to be held.

When to be  
filed.

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario, when such absence shall be stated in the nomination paper.

Consent of  
candidate  
in writing.

(6) Where the nomination paper is filed with the returning officer not later than half-past one of the clock in the afternoon on the day fixed by the proclamation for holding the nomination meeting by the candidate or his agent, he shall, if requested, then and there examine the same, and if satisfied of the regularity thereof and that it is signed by the proper number of duly qualified electors, he shall so certify in writing, and his certificate shall be final and the validity of the nomination shall not be open to question upon any ground whatever. R.S.O. 1927, c. 8, s. 57.

Certificate  
of returning  
officer  
as to  
regularity.

(7) The returning officer shall not reject any nomination paper which is received before the time fixed for the close of

Imperfect  
nomination  
paper.



nomination in the proclamation of the returning officer and which is signed by at least one hundred persons purporting to be residents of and electors in the electoral district, and if any nomination paper appears to the returning officer for any reason to be invalid he shall not reject the same until he has communicated the facts to the Chief Election Officer and the Chief Election Officer has in writing signed by him, authorized such rejection, and for the purposes of communicating with the Chief Election Officer the returning officer shall adjourn the proceedings until the hour of one o'clock on the next day following, when he shall at the same place announce the decision of the Chief Election Officer. 1929, c. 5, s. 5.

#### WHEN POLL TO BE GRANTED.

Grant of  
poll.

**59.** If more candidates than are required to be elected are nominated the returning officer shall grant a poll for taking the votes, and if he refuses or neglects to do so he shall incur a penalty of \$1,000, and if he declares any candidate to be elected the election shall be void. R.S.O. 1927, c. 8, s. 58.

#### ELECTION BY ACCLAMATION.

If only one  
candidate  
proposed  
within an  
hour, he to  
be declared  
elected.

**60.** If no more candidates are nominated than are required to be elected, or if by the withdrawal of persons nominated there remain no more candidates than are required to be elected, the returning officer, at the expiration of the time in which nominations may be received shall close the election, and openly proclaim the person or persons so chosen to be duly elected. R.S.O. 1927, c. 8, s. 59.

#### OFFICIAL AGENTS OF CANDIDATES.

Returning  
officer to  
publish  
names and  
addresses  
of agents.

**61.** The returning officer shall announce\* at the place and on the day of nomination and on or immediately after the day of nomination, shall publish, at the expense of the candidates, the names and addresses of their official agents in a newspaper, published or circulated within the electoral district. R.S.O. 1927, c. 8, s. 60.

#### WITHDRAWAL OF CANDIDATES.

With-  
drawal of  
candidate  
after  
nomination.

**62.—(1)** A candidate may withdraw at any time after his nomination and before the opening of the poll, by delivering to the returning officer a declaration in writing (Form 14), to that effect signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn shall be null and void, and if, after the withdrawal, there remain but one candidate, the returning officer shall return as duly elected the candidate so remaining.



(2) In the case of a candidate withdrawing where there are <sup>With-</sup> more than two candidates, the returning officer shall, if <sup>drawal of</sup> possible, cause every deputy returning officer to be notified <sup>candidate.</sup> forthwith of the withdrawal and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. R.S.O. 1927, c. 8, s. 61.

#### DEATH OF CANDIDATE.

**63.** If a candidate dies after being nominated and before <sup>Death of</sup> the close of the poll, the returning officer shall fix new days <sup>candidate.</sup> for the nomination of candidates, and for polling, and the nomination day shall be the nearest day practicable, after allowing the required delay between the posting up of the proclamation and the nomination day, and, with his return, he shall make to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. R.S.O. 1927, c. 8, s. 62.

#### PROCLAMATION OF NAMES OF DEPUTY RETURNING OFFICERS.

**64.** Where a poll has been granted, the returning officer, <sup>Returning</sup> immediately after having granted a poll, and before adjourn- <sup>officer to</sup> ing his proceedings, shall publicly proclaim at the place of <sup>proclaim</sup> nomination as far as practicable the names of the deputy <sup>names of</sup> returning officers, and shall on the written request of a <sup>deputy</sup> candidate furnish him with a list of the deputy returning <sup>returning</sup> officers showing the polling place at which each deputy <sup>officers.</sup> returning officer is to act. R.S.O. 1927, c. 8, s. 63.

#### POLLING.

##### PROCEEDINGS PRELIMINARY TO THE POLL.

##### *Deputy Returning Officers.*

**65.**—(1) The returning officer by a commission under <sup>Appoint-</sup> his hand (Form 15), shall appoint a deputy returning officer <sup>ment of</sup> for every polling place. <sup>deputy</sup> <sup>returning</sup> <sup>officers</sup>

(2) No person shall be so appointed who is not a voter in <sup>Deputy</sup> the local municipality wherein the polling place for which <sup>returning</sup> he is appointed is situate, or, in the case of territory without <sup>officer to be</sup> municipal organization, who is not a voter in the electoral <sup>a voter in</sup> district. <sup>local muni-</sup> <sup>cipality.</sup> R.S.O. 1927, c. 8, s. 64.

**66.** Every deputy returning officer, before acting, shall take <sup>Oath of</sup> and subscribe the oath (Form 16). R.S.O. 1927, c. 8, s. 65. <sup>office, etc.</sup>

Penalty for refusing to perform duties of office.

**67.** A person appointed a deputy returning officer who refuses to accept the office, or who, after having accepted it, refuses or neglects to take and subscribe the oath or to perform the duties of a deputy returning officer, shall incur a penalty of \$100. R.S.O. 1927, c. 8, s. 66.

Death or absence of deputy returning officer.

**68.** In case of the death, illness or absence of a deputy returning officer or of his refusal or neglect to act, the returning officer may, in the manner hereinbefore provided, appoint another deputy returning officer to act in his stead; and the appointment and oath of the person so appointed shall be endorsed upon or attached to the poll book. R.S.O. 1927, c. 8, s. 67.

#### *Polling Places in Unorganized Territory.*

Polling places in districts.

**69.** In territory without municipal organization, polls shall be held at such places as may be fixed by the chief enumerator, subject to the approval of the board. R.S.O. 1927, c. 8, s. 68.

Municipality without assessment roll.

**70.** Territory comprised within a newly organized municipality for which there is no assessment roll shall be deemed to be territory without municipal organization within the meaning of section 69. R.S.O. 1927, c. 8, s. 69.

#### *Materials to be furnished to Deputy Returning Officer.*

Supplies to be furnished by returning officer.

**71.** The returning officer shall deliver to each deputy returning officer, two days at least before the polling day, a blank poll book, forms of oaths to be administered to voters, envelopes and sealing-wax, and a screen, if one is required. R.S.O. 1927, c. 8, s. 70.

#### *Ballot Papers.*

Weight of paper.

**72.—(1)** The paper used for printing the ballot papers shall be of the following weight; if foolscap paper is used it shall be of a weight of not less than sixteen pounds to the ream; if large post paper is used it shall be of a weight of not less than twenty-five pounds to the ream.

Paper to show secret marking.

**(2)** The paper used shall contain a secret thread or other mark so placed as to run through each column of ballots ruled on every sheet of the ballot paper furnished.

Security to be furnished by manufacturer.

**(3)** The manufacturer of the paper shall be required to furnish security in such amount as may be fixed by the Lieutenant-Governor in Council, that none of the paper manufactured for use in printing the ballots shall be supplied by him to any other person than the King's Printer, and upon

the delivery of the paper the number of sheets shall be counted by the King's Printer and a receipt therefor in writing signed by the King's Printer shall be given to the manufacturer.

(4) The paper required for the printing of the ballot papers shall be furnished to the Clerk of the Crown in Chancery by the King's Printer from time to time as may be required, and the King's Printer and the Clerk of the Crown in Chancery shall check the number of sheets of ballot paper so furnished and the Clerk of the Crown in Chancery shall give to the King's Printer a receipt in writing signed by him.

King's Printer to furnish paper to Clerk of the Crown in Chancery.

(5) The Clerk of the Crown in Chancery shall personally deliver or transmit by express in a box or boxes locked and sealed with his seal to the returning officer for each electoral district a sufficient number of sheets of the paper for the printing of the ballots and the returning officer shall upon receipt of the same count the sheets and forward his receipt therefor (Form 18) to the Clerk of the Crown in Chancery.

Supply to be furnished to returning officer.

(6) The returning officer shall procure to be printed on the paper furnished to him, as hereinafter provided, a sufficient number of ballot papers, not being less than the total number of voters in the electoral district.

Returning officer to see to printing of ballots.

(7) The printer shall count the sheets of ballot paper delivered to him and shall give a receipt therefor (Form 19) to the returning officer, and the returning officer shall transmit the same with the other papers relating to the election to the Clerk of the Crown in Chancery.

Returning officer to give receipt for ballot paper.

(8) The names of the candidates, alphabetically arranged in the order of their surnames, shall be printed on the ballot paper, and it shall be provided with a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub, the whole as in Form 17.

Form of ballot.

(9) The ballot papers shall be numbered on the back of the stub and the counterfoil, the same number being printed or written on the stub as on the counterfoil, and shall be bound or stitched in books containing twenty-five, fifty or one hundred ballot papers, as may be most suitable for supplying the polling subdivisions proportionately to the number of voters in each.

Numbering ballot papers.

(10) All ballot papers shall be of the same description and as nearly alike as possible.

Uniformity.

(11) The ballot papers shall bear upon the back the name of the printer who prints them.

Printer's name.

Affidavit  
of printer.

(12) The printer shall with the ballot papers deliver to the returning officer an affidavit (Form 20). 1929, c. 5, s. 6.

Supply to  
deputy  
returning  
officer.

**73.** The returning officer shall furnish each deputy returning officer with a sufficient number of ballot papers to supply the voters on the polling list of his polling place or polling subdivision, and a certificate of the number of ballot papers with the necessary materials for voters to mark their ballot papers, and he shall when delivering the same make a record of the numbers on the ballots delivered to each deputy returning officer and this record shall be returned to the Clerk of the Crown in Chancery along with other documents required to be returned to him. R.S.O. 1927, c. 8, s. 72; 1929, c. 5, s. 7.

Copies of  
directions  
to voters for  
deputy  
returning  
officers.

**74.**—(1) The returning officer shall furnish each deputy returning officer with at least three copies of the printed directions (Form 5), for the guidance of voters in voting, and the deputy returning officer shall, before or at the opening of the poll, on the day of polling, cause such printed directions to be posted up in conspicuous places outside of the polling place, and also in each compartment of the polling place. R.S.O. 1927, c. 8, s. 73.

Receipt to  
be given  
by deputy  
returning  
officer.

(2) Immediately upon receipt of the ballot papers from the returning officer, the deputy returning officer shall count the same and forward the receipt therefor (Form 21) to the returning officer. 1929, c. 5, s. 8.

Custody of  
ballot  
paper.

**75.** The Clerk of the Crown in Chancery shall cause a check to be made before each general election and at least once in every year, of all ballot paper furnished to him and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept except the Clerk of the Crown in Chancery or some person acting directly under his authority. 1929, c. 5, s. 9.

#### *Preparation of Polling Lists by Clerk of the Peace.*

Polling lists.

**76.**—(1) Every returning officer upon granting a poll shall forthwith obtain from the clerk of the peace a sufficient number of copies of the polling list for each polling subdivision in the electoral district to provide one copy for the use of the returning officer, one copy for each of the deputy returning officers and six copies for each of the candidates at the election, and the polling list shall contain the names of all persons qualified to vote at the election in that polling subdivision and no other and the returning officer shall immediately cause the polling lists and copies to be delivered to the deputy returning officers and candidates respectively.



- (a) Except where the Chief Election Officer otherwise directs the clerk of the peace shall cause the polling lists prepared by him to be printed on one side of the paper only, and the polling list for each polling subdivision shall contain in one list the names of all persons qualified to vote at the election in that polling subdivision arranged in alphabetical order or according to street numbers where the council has so directed as provided in *The Voters' Lists Act*. Rev. Stat., c. 7.
- (2) Where a returning officer, instead of subdividing a polling subdivision, provides additional polling places he shall obtain from the clerk of the peace as many polling lists as may be necessary for such additional polling places. Lists for additional polling places. R.S.O. 1927, c. 8, s. 74.
- (3) Where the Chief Election Officer so directs the clerk of the peace shall prepare for revision by the revising officers as provided in *The Voters' Lists Act*, a list, prepared alphabetically or by street numbers, containing the names of all persons entitled to vote at elections to the Legislative Assembly in the polling subdivision as shown upon Part I and Part III of the voters' list, and notwithstanding anything in *The Voters' Lists Act* contained the list so prepared shall be the list to be revised by the revising officers and shall be posted up, and revised, and certified in the same manner as lists prepared, revised and certified under *The Voters' Lists Act*. Alphabetical list to be prepared by clerk of the peace. Rev. Stat., c. 7.
- (4) To avoid expense to the municipalities concerned and to the Province, after the preparation of the list the Chief Election Officer may direct that the same shall be typewritten, set up in type and the type kept standing until after the revision and the changes made upon the revision incorporated in the list. List to be set up in type.
- (5) Where the lists are prepared and set up as provided in subsections 3 and 4 it shall be the duty of the board to apportion the expense of preparing, printing and revising the same between the municipalities and the Province in such manner as the board may deem most equitable. Apportioning expenses of preparing list.
- (6) The lists as so prepared, revised and certified shall be the polling lists to be delivered to the deputy returning officers for use at the polling places. Polling list.
- (7) Where it appears to the Chief Election Officer that it is impracticable to carry out any of the provisions of the preceding subsections of this section, he may cause such arrangements to be made for preparing the polling list as he Special directions by Chief Election Officer when necessary.



may deem proper under the circumstances, and it shall be the duty of the clerk of the peace to carry out any directions or instructions given by the Chief Election Officer under this section, but nothing in this section shall authorize any name to be placed upon or omitted from the polling list which is not contained in Part I or Part III of the voters' list prepared by the clerk of the municipality except so far as may be necessary to give effect to the changes made upon the revision of the list by the revising officer. 1929, c. 5, s. 10.

Polling lists prepared under Part IV, *The Voters' Lists Act* to be used and certified correct by the returning officer.

Rev. Stat., c. 7.

(8) In all cases where the polling lists are prepared in the manner provided by Part IV of *The Voters' Lists Act*, such lists as so prepared, revised and certified shall be the polling lists to be delivered to the deputy returning officers for use at the polling divisions and shall be the list to be used for the election, and each list so delivered to the deputy returning officers shall have endorsed thereon a certificate by the returning officer that it contains the names of all persons appearing on the polling list as finally revised by the revising officer for the polling division to which it relates, to be entitled to vote at the election in the polling division or at that polling place and no other, and notwithstanding the provisions of section 95 no person shall be entitled to vote at any election unless his name is duly entered on such polling list. 1933, c. 13, s. 10.

Certificate of clerk of peace.

**77.** Subject to the provisions of subsection 8 of section 76, the clerk of the peace shall add to each polling list a certificate that it contains the names of all persons appearing according to the proper voters' list to be entitled to vote at the election in that polling subdivision or at that polling place and no other names. R.S.O. 1927, c. 8, s. 75; 1934, c. 14, s. 3.

#### *Poll Clerks.*

Appointment of poll clerks.

**78.**—(1) The deputy returning officer shall by a commission under his hand (Form 23), appoint a poll clerk to assist him in taking the poll; and the poll clerk before acting, shall take and subscribe the oath (Form 22).

Penalty.

(2) Every person appointed poll clerk who refuses to accept the office, or who, after having accepted it refuses or neglects either to take and subscribe the oath or to perform the duties of a poll clerk, shall incur a penalty of \$40.

Poll clerk to be a voter in local municipality.

(3) No person shall be appointed poll clerk who is not a voter in the local municipality wherein the polling place to which he is appointed is situate, or, in the case of territory without municipal organization, who is not a voter in the electoral district. R.S.O. 1927, c. 8, s. 76.

**79.** The poll clerk shall assist the deputy returning officer in the performance of the duties of his office, and shall obey his orders. R.S.O. 1927, c. 8, s. 77. Duties of poll clerk.

**80.** If the deputy returning officer refuses or neglects to perform the duties of his office, or from any cause becomes unable to perform them, and if no other deputy returning officer appointed by the returning officer appears at the polling place the poll clerk, under the same penalties as are hereinbefore imposed in like cases on a deputy returning officer, shall act as deputy returning officer, and perform all the duties and be subject to all the obligations of that office, without taking the oath of a deputy returning officer. R.S.O. 1927, c. 8, s. 78. To act as deputy returning officer in certain cases.

**81.** Where a poll clerk acts as deputy returning officer he may appoint by a commission under his hand (Form 23), another person as poll clerk, to assist him in the performance of the duties of his office, and may administer to him the oath, and such commission and oath shall be endorsed on or attached to the poll book. R.S.O. 1927, c. 8, s. 79. Appointment of another poll clerk in such case.

**82.** If a poll clerk refuses or neglects to perform the duties of his office or from any cause becomes unable to perform them, the deputy returning officer may appoint another person as poll clerk, and the commission and the oath shall be endorsed on or attached to the poll book. R.S.O. 1927, c. 8, s. 80. Appointment of poll clerk in certain cases.

### *Constables.*

**83.** The deputy returning officer may appoint a constable to preserve order at the polling place, but such appointment shall not be made unless the same has been authorized in writing by the returning officer or a breach of the peace or a violation of the law is threatened or anticipated. R.S.O. 1927, c. 8, s. 81. Constable at polling place.

### *Where Voters to Vote.*

**84.—(1)** Subject to the provisions of section 85, if the name of a person entitled to vote is entered on the polling list for more than one polling subdivision he shall vote only at the polling place for the subdivision in which he resides at the time of the polling, if entitled to vote in such subdivision. Voter to vote in subdivision in which he resides.

**(2)** Subject to the provisions of section 85, where a voters' list has been prepared under Part V of *The Voters' Lists Act*, every person named therein may vote at the polling place on the list for which he is entered and not elsewhere. Where voter to vote in unorganized territory. Rev. Stat., c. 7.

Penalty.

(3) A person who votes in contravention of this section shall incur a penalty of \$200. R.S.O. 1927, c. 8, s. 82.

Deputy,  
poll clerk  
and agents  
may vote at  
polling  
places  
where  
they are  
employed.

**85.**—(1) The returning officer, on the request of any person entitled to vote, who has been appointed deputy returning officer or poll clerk, or agent of any of the candidates at a polling place other than the one at which he is entitled to vote, shall give to such person a certificate (Form 24), that he is entitled to vote at the polling place at which he is stationed during the polling day, and the certificate shall bear the date upon which it is signed by the returning officer.

When  
certificate  
for that  
purpose  
may be  
given.

(2) The returning officer shall not give such certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote and after giving such certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling subdivision or polling place in which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given shall not thereafter be entitled to vote in such polling subdivision or polling place.

At what  
time.

(3) The returning officer shall not be required to give a certificate under this section unless requested to do so at least two days before polling day.

Polling  
place to be  
designated.

(4) The certificate shall name the polling place at which the person is to be permitted to vote.

Returning  
officer to  
keep a list  
of persons  
obtaining  
certificates.

(5) The returning officer shall enter in a list the name, residence and occupation of every person to whom he gives a certificate under this section, the polling place at which such person is under the certificate authorized to vote, and the polling subdivision or polling place in or at which such person appears by the polling list to be entitled to vote and state therein whether the certificate is granted to him as deputy returning officer, poll clerk or agent, and if as agent, the name of the candidate for whom he is agent, and the entry shall be made before the certificate is delivered.

Entry of  
refusal of  
certificate.

(6) The returning officer shall also enter in the list the name of every person applying for a certificate to whom it was refused with the ground of refusal, and, if the last mentioned person claimed to be the agent of a candidate the name of the candidate, and the list shall be open to inspection by a candidate or by his agent or by a voter.

Limitation  
of number  
of certi-  
ficates to  
agents of  
candidates.

(7) A returning officer shall not give certificates to more than two agents of the same candidate at one polling place and he shall not give a certificate under this section except

upon the personal or written request of the applicant, and a returning officer who gives a certificate in contravention of this subsection shall incur a penalty of \$400. R.S.O. 1927, c. 8, s. 83.

**86.**—(1) On the production of the certificate the voter shall have the right to vote at the polling place named therein; but the certificate shall not entitle a voter to vote there unless he has been actually engaged there as deputy returning officer, poll clerk, or agent during polling day, or entitle an agent to vote who is disqualified under section 16.

On production of certificate of returning officer.

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk or agent, shall not vote until he has taken one or other of the oaths of qualification, and any person violating the provisions of this subsection shall incur a penalty of \$400, and every vote cast in contravention of this subsection shall be null and void.

Person receiving a certificate to take oath of qualification before voting.

(3) The oath shall be administered to a deputy returning officer by the poll clerk, and to a poll clerk or agent by the deputy returning officer.

Before whom oath to be taken.

(4) The deputy returning officer shall enter, or cause to be entered in the column for remarks in the poll book (Form 7), opposite the name, residence and occupation of every person, including himself if he so votes, voting under the authority of a certificate, the words "Voted under certificate."

Entry on list of persons voting under authority of a certificate.

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot paper.

Certificate to be delivered to deputy returning officer by person voting.

(6) The deputy returning officer shall enclose all certificates in one envelope. R.S.O. 1927, c. 8, s. 84.

Preservation.

#### THE POLL.

##### *Hours of Polling.*

**87.**—(1) Subject to the provisions of subsection 2 the polls at every election to the Assembly shall open at eight o'clock in the forenoon and shall be kept open until seven o'clock in the afternoon of the same day and the voting shall be by ballot in the manner provided by this Act.

Hours of polling generally.

(2) Where the board deems it desirable for the convenience of workmen or of persons residing at a distance from the place at which their ordinary calling or business is carried on, that the polls should be opened in any municipality

When board may provide for earlier opening.



or electoral district at an earlier hour than eight o'clock in the forenoon the board may direct that the polls shall be opened in such municipality or electoral district at any time earlier than eight o'clock, but not earlier than six o'clock in the forenoon as the board may deem expedient. R.S.O. 1927, c. 8, s. 85.

*Special Polls for Railway Employees, Sailors and Travellers.*

Special polls  
for railway  
employees,  
travellers  
and sailors.

**88.**—(1) The Lieutenant-Governor in Council may by order declare that the following subsections of this section shall apply to any electoral district or to any municipality in an electoral district and thereafter, and while the order remains in force, polls shall be provided at an election to the Assembly or the voting upon any question submitted to the electors of Ontario for receiving the votes of railway employees, sailors and travellers whose employment is such as to necessitate their absence from time to time from their ordinary place of residence, or who have reason to believe that they will be absent upon the day fixed for polling at such election or upon such question. R.S.O. 1927, c. 8, s. 86 (1).

When polls  
to be open.

(2) For the purpose of enabling such railway employees, sailors and travellers to vote, polls shall be held and kept open from eight o'clock in the forenoon until five o'clock in the afternoon, and from seven o'clock in the afternoon until ten o'clock in the afternoon on the two days immediately preceding that on which the poll is held. 1934, c. 14, s. 4 (1).

Number of  
polls and  
appointment  
of officers.

(3) The Lieutenant-Governor in Council shall fix the number of polls to be so opened in the electoral district or municipality and the returning officer shall fix the polling places and shall appoint a deputy returning officer and poll clerk to hold each poll. R.S.O. 1927, c. 8, s. 86 (3).

Notice  
of polls.

(4) Notice of the times and places at which polls shall be opened (Form 25) shall, prior to the day so fixed for holding the poll, be given by the returning officer by posting up notices at each of the polling places so appointed, and in a conspicuous place in the municipality, and where possible, by advertisement in a newspaper published in the electoral district or municipality. 1934, c. 14, s. 4 (2).

Furnishing  
necessary  
material  
and supplies.

(5) Ballot boxes and ballot papers and a certified voters' list containing all the printed lists for the electoral district or so many as may be required for the purpose of the poll shall be supplied by the returning officer to the deputy returning officer together with poll books, forms of oath and other documents required for the purpose of the polls.



(6) Every person offering himself as a voter at the polling place before being allowed to vote shall be required by the deputy returning officer to make the following declaration, which shall be kept by the deputy returning officer with the other records of the poll:

I, \_\_\_\_\_, declare that I am at present employed by the \_\_\_\_\_ railway company. *(or as the case may be)* and that I expect in the course of my employment to be absent from my usual place of residence, on the day for holding the poll at the coming election.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

*(Name of Voter)*

Witness:

Deputy Returning Officer.

(7) Any person signing any such declaration knowing that the statements therein are false shall incur a penalty of not less than \$25 nor more than \$100.

(8) The poll clerk shall record in the poll book in the column headed "Remarks" after the name of each person who votes a note that he has signed the declaration above set out and the number of the polling subdivision in which he is entered on the voters' list.

(9) No person shall be entitled to vote unless his name appears on the last revised voters' list for the electoral district.

(10) The deputy returning officer and every candidate or his agent may require that the voter, before being handed a ballot, take the proper oath to be administered to a voter.

(11) The ballot box shall not be opened after the opening of the poll until seven o'clock in the afternoon of the general polling day, but on adjourning the poll each day the deputy returning officer and any candidate or agent present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballot be deposited in it without breaking such seals.

(12) At the close of the poll the deputy returning officer shall forthwith make up and deliver to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivisions in which the voter is entered on the voters' list, and the returning officer shall, at the request of any candidate, furnish him with a copy of such list.

Opening  
ballot boxes  
and count-  
ing ballots.

(13) On polling day the deputy returning officer shall in the presence of such candidates and their agents as may be present at the hour fixed for the closing of the poll open the ballot boxes, count the votes and perform all the other duties required of deputy returning officers by this Act, sections 113 to 120, inclusive. R.S.O. 1927, c. 8, s. 86 (5-13).

*Mariners Voting by Proxy.*

Mariner's  
right to vote  
by proxy.

**89.**—(1) Where the name of a person is entered on the voters' list for a polling subdivision as entitled to vote at elections to the Assembly and such person is a mariner he shall be entitled to vote by proxy as in this section provided.

Appoint-  
ment of  
proxy.

(2) A mariner may appoint in writing (Form 26) a proxy who shall be the wife, husband, parent, brother, sister or child of the mariner, of the full age of twenty-one years and an elector entitled to vote in the electoral district in which the mariner is qualified to vote.

Term of  
appoint-  
ment.

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district and no appointment of a proxy shall be valid unless it is made after the date of the issue of the writ of election nor shall it remain in force after the return of such writ.

Application  
of proxy to  
be entered  
on list.

Rev. Stat.,  
c. 7.

(4) A person who has been appointed a voting proxy may apply to the revising officer at the sittings held for the revision of the lists in accordance with the provisions of *The Voters' Lists Act* in the municipality in which the mariner is entitled to vote, to be entered upon such list.

Evidence to  
be taken by  
revising  
officer.

(5) The revising officer shall take evidence on oath as to the right of the mariner to vote in the subdivision of the municipality upon the list of which his name is entered and as to the qualifications of the voting proxy, and if he finds that the mariner is duly qualified and that the voting proxy is qualified to act for him, he shall give a certificate across the face of the appointment of such voting proxy to that effect (Form 27), and shall cause the name of the voting proxy to be entered on the voters' list after the name of the mariner.

Not more  
than one  
proxy.

(6) No more than one person shall be appointed a voting proxy on behalf of a mariner at the same election.

Oath  
on voting.

(7) A ballot paper shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appoint-

ment as a voting proxy to the deputy returning officer with the certificate of the revising officer thereon as provided in subsection 5, and takes the oath (Form 28).

(8) The deputy returning officer shall record in the poll book the fact that the mariner voted by proxy, showing the name of the proxy, and shall file the proxy and certificate with the election papers and return the same to the returning officer in the envelope provided for that purpose. Record of voting by proxy.

(9) The Lieutenant-Governor in Council may prescribe any further or other forms which he may deem necessary for the purposes of this section and may make regulations as to the mode in which proxies may be given and generally for the better carrying into effect of the provisions of this section and preserving the secrecy of voting in pursuance thereof. Forms and regulations.

(10) A person who has been appointed as a voting proxy shall be entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy for a mariner. Proxy may vote in own right.

(11) Every person who,—

Offences.

(a) attempts to vote at an election otherwise than by means of such voting proxy while the appointment of such voting proxy is in force; or Voting after appointing proxy.

(b) votes or attempts to vote at any election under the authority of an appointment as a voting proxy when he knows or has reasonable grounds for supposing that such appointment has been cancelled or that the voter by whom the appointment has been made is dead or no longer entitled to vote, Proxy voting after annulment.

shall be guilty of an illegal practice within the meaning of this Act and shall incur a penalty of \$200 and shall be imprisoned for six months. 1929, c. 5, s. 12. Penalty.

### *Voting by Ballot.*

**90.** The votes shall be given by ballot. R.S.O. 1927, c. 8, s. 87. Voting to be by ballot.

### *Procedure at Poll.*

**91.**—(1) The deputy returning officer shall attend at the polling place at least fifteen minutes before the hour fixed for opening the poll. Attendance of deputy returning officer.

Counting  
ballots be-  
fore opening  
of poll.

(2) During such fifteen minutes, agents and voters entitled to be present in the polling place during polling hours shall be entitled to have the ballot papers intended for use thereat counted in their presence before the opening of the poll, and to inspect such ballot papers, and all other papers, forms and documents relating to the poll. R.S.O. 1927, c. 8, s. 88.

Deputy to  
show box  
empty, and  
lock and  
seal it.

**92.** The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see that it is empty, and he shall then lock the box, and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present and shall keep the box so locked and sealed. R.S.O. 1927, c. 8, s. 89.

One voter  
only for  
each com-  
partment.

**93.** Not more than one voter for each compartment shall at any one time enter the room where the poll is held, and each voter upon so entering shall declare his name, place of residence and occupation, which particulars shall be entered in the poll book by the poll clerk, a consecutive number being prefixed to the name. R.S.O. 1927, c. 8, s. 90.

Persons on  
polling list  
to be  
allowed to  
vote on  
taking oath  
if required.

**94.** Subject to the provisions of sections 86 and 95, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon, if such person, where required by a candidate, or his agent, or by the deputy returning officer, takes the oath of qualification (Forms 1, 2, 30, 31 and 32), and the oath of allegiance (Form 29) or whichever is required to be taken. R.S.O. 1927, c. 8, s. 91; 1935, c. 21, s. 3.

Application  
of section.

**95.—(1)** The following provisions of this section shall apply in the case of a polling subdivision in a township or village and in a town having a population of not more than 3,500 according to the last Dominion census, provided that such polling subdivision is not within five miles of a city having a population of 100,000 or over.

Omission of  
name from  
polling list—  
voting when  
vouched for.

(2) The deputy returning officer, if required by any person whose name is not on the polling list and who is vouched for by an elector whose name is upon the polling list and who is resident in such polling subdivision, shall administer to such person an oath in the following form,—

You swear that your name is (*full name of applicant*) that you reside at (*give street number, lot, concession, etc.*) and that your name as you verily believe has been omitted in error from the polling list. So help you God.



and to such other person the deputy returning officer shall administer an oath in the following form,—

You swear that your name is (*full name of voter*), that you reside at (*give street number, lot, concession, etc.*) and that you are the person named by the said name on the polling list.

That you well know (*insert name of applicant*) and that he is as you believe duly qualified to be entered on the polling list and to vote at this election. So help you God.

R.S.O. 1927, c. 8, s. 92 (1, 2).

(3) The deputy returning officer shall then administer to the applicant the oath of allegiance (Form 29) and the proper oath to be administered to voters (Forms 30, 31 and 32) (leaving out paragraph 1 in this oath), and shall cause the applicant's name to be added to the polling list with the word "sworn" written thereafter. R.S.O. 1927, c. 8, s. 92 (3); 1935, c. 21, s. 4.

Voter to take oath.

(4) The applicant upon taking the oath and being so vouched for shall be entitled to vote. R.S.O. 1927, c. 8, s. 92 (4).

Right to vote after taking oath.

(NOTE: *Section 3 of Chapter 3 of the Statutes of 1930 provides for the repeal of section 95, but the repealing section is to come into force only upon proclamation and has not been proclaimed at the date of the publication of the Revised Statutes.*)

**96.** If a deputy returning officer votes at the polling place at which he has been appointed to act, the poll clerk or in his absence the agent of a candidate authorized to be present may administer to him the oath to be taken by a voter. R.S.O. 1927, c. 8, s. 93.

Administration of oath to deputy returning officer voting at his polling place.

**97.**—(1) Where a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or tenders his vote under a false name or designation or personates or represents himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether he has been required to do so or not.

When deputy returning officer to swear voter.

(2) A deputy returning officer who acts in contravention of this section shall incur a penalty of \$200. R.S.O. 1927, c. 8, s. 94.

Penalty.

**98.** Every person who is entitled to vote shall receive from the deputy returning officer a ballot paper on the back of which the deputy returning officer has previously put his initials so placed as indicated in Form 17 that when the ballot is folded they can be seen without opening it, and on the back of the counterfoil of which he has placed a number

Deputy to put initials on back of ballot paper and number on counterfoil.



corresponding to that placed opposite the voter's name in poll book. R.S.O. 1927, c. 8, s. 95.

Instructions to voter.

**99.** The deputy returning officer shall, upon request of the voter, instruct him how to mark and fold his ballot paper, but without inquiring or seeing for whom he intends to vote except in the cases provided for by section 100. R.S.O. 1927, c. 8, s. 96.

Voter incapacitated by blindness, etc.

**100.**—(1) The deputy returning officer on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall require the voter making such application to take an oath (Form 33), of his incapacity to vote without assistance, and shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidates in the polling place and of no other person, and place such ballot in the ballot box.

Blind voters ballot marked by friend.

(2) The deputy returning officer shall either deal with a blind voter in the same manner as with an illiterate or otherwise incapacitated voter, or at the request of any blind voter who has taken the oath (Form 33), and is accompanied by a friend, shall permit such friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

Oath of friend.

(3) Any friend who is permitted to mark the ballot of a blind voter as aforesaid, shall first be required to take an oath (Form 34) that he will keep secret the name of the candidate for whom the ballot of such blind voter is marked by him, and no person shall at any polling place be allowed to act as the friend of more than one blind voter.

Entry in poll book.

(4) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name, the reason why such ballot paper was marked by him, or by a friend of the voter. 1933, c. 13, s. 11.

Voters who cannot speak English.

**101.**—(1) Where a voter does not understand the English language the deputy returning officer may employ an interpreter to translate the oath as well as any lawful questions necessarily put to the voter, and his answers, and the interpreter shall take the oath following:

"I swear (*or affirm*) that I will faithfully translate such oaths, declarations, questions and answers as the deputy returning officer shall require me to translate at this election. So help me God."

(2) If no such interpreter is found or presents himself at the polling place the voter shall not be allowed to vote. If no interpreter, no vote.  
R.S.O. 1927, c. 8, s. 98.

**102.** The voter on receiving his ballot paper shall forthwith proceed into one of the compartments of the polling place, and there mark his ballot paper, making a cross with a black lead pencil within the white space containing the name of the candidate, or within the white spaces containing the names of the candidates for whom he intends to vote, and shall then fold the ballot paper so that the initials on the back of it and the number on the counterfoil can be seen without opening it, and hand it to the deputy returning officer, who shall, without unfolding it, ascertain by examining his initials, and the number on the counterfoil, that it is the same ballot paper that he furnished to the voter, and shall then, in full view of all present, including the voter, remove the counterfoil and tear up or otherwise destroy it and place the ballot paper in the ballot box. Mode of marking, folding and depositing ballot paper. R.S.O. 1927, c. 8, s. 99.

**103.** The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as the ballot paper has been deposited in the ballot box, and shall enter in the same book the word "Sworn" or "Affirmed" opposite the name of each voter to whom the oath has been administered, and the words "Refused to be sworn" or "Refused to affirm" opposite the name of each voter who has refused to take any oath when he has been required so to do. Entries to be made in poll book as to voters. R.S.O. 1927, c. 8, s. 100.

**104.**—(1) A person who has refused to take the oath when required so to do, shall not receive a ballot paper or vote, and the vote of such person if taken and received shall be null and void. Voter refusing to be sworn.

(2) A deputy returning officer who receives such vote or causes the same to be received, shall incur a penalty of \$200. Penalty for receiving such vote. R.S.O. 1927, c. 8, s. 101.

**105.** The voter shall vote without undue delay, and shall leave the polling place as soon as his ballot paper has been placed in the ballot box. Voter to leave as soon as possible. R.S.O. 1927, c. 8, s. 102.

**106.** While a voter is in a compartment for the purpose of marking his ballot paper no other person shall be allowed to enter the compartment, or to be in a position from which he can see for whom the voter marks his ballot paper. Exclusion from ballot-ing compartment. R.S.O. 1927, c. 8, s. 103.

Voter not  
to take his  
paper from  
polling  
place, etc.

**107.** A person who has received a ballot paper shall not take it out of the polling place, and a person who receives a ballot paper, and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot paper declining to vote, shall forfeit his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks, to the effect that such person received a ballot paper, but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot paper, and shall preserve it to be returned to the returning officer. R.S.O. 1927, c. 8, s. 104.

Voter who  
alleges  
he has  
been per-  
sonated.

**108.**—(1) If a person representing himself to be a voter applies for a ballot paper after another person has voted as such voter, he shall be entitled to receive a ballot paper and to vote after taking the oath, and otherwise establishing his identity to the satisfaction of the deputy returning officer.

Initials and  
number to be  
put on back.

(2) The deputy returning officer shall put on the back of the ballot paper his initials and a number corresponding to the number entered on the poll book opposite the name of the voter.

Name of  
voter, etc.  
to be en-  
tered in  
poll book.

(3) The name of the voter shall be entered on the poll book, and a note shall be made of his having voted on a second ballot paper, and of the fact of the oath having been taken and of any objections made on behalf of any and of which of the candidates. R.S.O. 1927, c. 8, s. 105.

Where bal-  
lot paper  
accidentally  
spoilt.

**109.** A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the deputy returning officer, be entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "Cancelled" upon the first mentioned ballot paper and preserve it to be returned to the returning officer. R.S.O. 1927, c. 8, s. 106.

What shall  
be deemed  
a tender of  
a vote and a  
voting.

**110.** A person who applies for a ballot paper shall by so doing be deemed to have tendered his vote or to have offered to vote; and a person who has placed or caused to be placed his ballot paper in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box shall be deemed to have voted. R.S.O. 1927, c. 8, s. 107.

Who may be  
in polling  
place

**111.**—(1) In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and

their agents, not exceeding two in number for each candidate, and, in the absence of agents, two voters to represent each candidate on the request of such voters, and no others shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes.

(2) An agent bearing a written authorization from the candidate shall always be entitled to represent him in preference to, and to the exclusion of any two voters who might otherwise claim the right of representing such candidate. Right of authorized agent.  
R.S.O. 1927, c. 8, s. 108.

**112.** A voter entitled to vote within a city or town shall, on the day of polling, be entitled to absent himself for the purpose of voting from any service or employment in which he is then engaged or employed, from the hour of noon until the hour of two of the clock next thereafter, or from the hour of four o'clock in the afternoon until the hour of six o'clock next thereafter, and a voter shall not, because of his so absenting himself, be liable to any penalty, or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled, but this section shall not apply where a voter is by his employer permitted or allowed at any other period during the hours of polling, reasonable and sufficient time and opportunity to vote. Right of employee to time for voting.  
R.S.O. 1927, c. 8, s. 109. Exception.

#### PROCEEDINGS AFTER CLOSE OF THE POLL.

**113.** Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and make an entry thereof on the line immediately below the name of the voter who voted last, thus:—*The number of voters who voted at this election in this polling place is (stating the number)*, and he shall sign his name thereto; then, in the presence and in full view of the persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. Duties of deputy returning officer after close of poll.  
R.S.O. 1927, c. 8, s. 110.

**114.** In counting the votes the deputy returning officer shall reject all ballot papers, herein called "Rejected ballot papers," What ballot papers to be rejected in counting votes.

(a) which have not been supplied by him; or



(b) by which votes have been given for more candidates than are to be elected; or

(c) upon which there is any writing or mark by which the voter can be identified, other than the number placed thereon by the deputy returning officer in the case provided for by section 108;

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot paper, shall avoid the same or warrant its rejection. R.S.O. 1927, c. 8, s. 111.

Objections  
to be  
noted—

**115.**—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper, by a candidate, or his agent or a voter present, and shall decide the objection subject to review on recount or on petition questioning the election or return.

And num-  
bered and  
initialled.

(2) Each objection shall be numbered, and a corresponding number placed on the back of the ballot paper and initialled by the deputy returning officer. R.S.O. 1927, c. 8, s. 112.

How ballots  
to be  
counted.

**116.**—(1) All the ballot papers not rejected by the deputy returning officer shall be counted and an account kept of the number of ballots cast for each candidate, and of the number of rejected and cancelled ballot papers, and all the ballot papers indicating the votes given for each candidate respectively shall be put into a separate envelope.

Ballot  
papers to be  
put into  
parcels  
under seal.

(2) All rejected and unused ballot papers respectively shall be put into separate envelopes, which shall be endorsed so as to indicate their contents, and shall be sealed by the deputy returning officer, and any agent present may write his signature across the flap of the envelope and may also affix his seal. R.S.O. 1927, c. 8, s. 113.

Statement  
of result to  
be made by  
deputy  
returning  
officer.

**117.**—(1) The deputy returning officer shall make out a statement in triplicate (Form 35), one part to remain attached to the poll book, another to be retained by him, and the third to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box.

Signatures  
to state-  
ment.

(2) The statement shall forthwith be signed by the deputy returning officer and poll clerk and such of the candidates or their agents as may be present, and may desire to sign it.

Certificate  
of result  
of poll.

(3) The deputy returning officer shall then deliver to each of the candidates, or to their agents, or, in the absence of



the candidates, and agents, to the voters present representing the candidates, a certificate (Form 36), of the number of ballots cast for each candidate, and of the number of rejected ballot papers. R.S.O. 1927, c. 8, s. 114.

**118.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the oath (Form 37). R.S.O. 1927, c. 8, s. 115.

Oath of poll clerk.

**119.** The poll book, the polling list, the envelope containing the ballot papers, and all other documents which served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. R.S.O. 1927, c. 8, s. 116.

Poll book, envelopes, etc., to be placed in large envelope in ballot box.

**120.**—(1) The deputy returning officer shall then immediately lock and seal the box, and forthwith deliver it personally to the returning officer, and if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box has been delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him, the oath (Form 38).

Ballot box to be delivered to returning officer.

(2) In lieu of the proceedings provided by subsection 1 after locking and sealing the ballot box the deputy returning officer may forward the same by registered post to the returning officer.

Ballot box may be forwarded by registered post.

(3) Forthwith thereafter the deputy returning officer shall take and subscribe the oath (Form 39), and shall personally deliver or transmit it by registered post to the returning officer. R.S.O. 1927, c. 8, s. 117.

Oath of deputy returning officer.

**121.** The returning officer upon the receipt by him of any ballot box shall take every precaution for its safe keeping and for preventing any other person than himself and the election clerk from having access to it, and shall immediately on the receipt of each box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and without effacing or covering the seals affixed thereto. R.S.O. 1927, c. 8, s. 118.

Duty of returning officer on receipt of boxes.

**122.** The returning officer at the place, day and hour appointed by his proclamation, and after having received all the ballot boxes, shall open them, and the large envelope

Count by returning officer and declaration of result.

containing the poll books, but not any of the other sealed envelopes except the one containing the statement of the poll, and shall in the presence of the election clerk and of the candidates or their representatives if present, add up the votes given for each candidate from the statements of the poll contained in the ballot boxes, and shall forthwith declare to be elected the candidate having the largest number of votes. R.S.O. 1927, c. 8, s. 119.

Casting vote. **123.** Where, on the addition of votes by the returning officer, an equality of votes is found to exist between any two or more candidates, and an additional vote would entitle any of them to be declared elected, the returning officer shall give the additional or casting vote. R.S.O. 1927, c. 8, s. 120.

#### PROCEEDINGS IN CASE OF NON-RETURN OF BALLOT BOXES, ETC.

Adjournment of proceedings where ballot box not duly delivered.

**124.** If the ballot boxes are not all returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall not be more than a week later than the day originally fixed. R.S.O. 1927, c. 8, s. 121.

Where default made by deputy returning officer in returning documents.

**125.** If any deputy returning officer has not enclosed in the ballot box the statement of the ballot papers counted by him as required by this Act, or if for any other cause, the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the adding up of the votes, and so from time to time, such adjournment or adjournments not in the aggregate to exceed two weeks. R.S.O. 1927, c. 8, s. 122.

Disappearance of ballot boxes, duty of returning officer.

**126.** If the ballot boxes or any of them have been destroyed or lost, or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate or copies of them, the whole to be verified by oath. R.S.O. 1927, c. 8, s. 123.

Procedure by returning officer where lists, statements, etc., cannot be found.

**127.** If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the several polling places; and may summon any deputy returning officer,

poll clerk, or other person, to appear before him at a time and place to be named by him, with all necessary papers and documents, of which time and place and of the intended proceedings the candidates shall have notice; and the returning officer may examine on oath such deputy returning officer, poll clerk, or other person, respecting the matter in question. R.S.O. 1927, c. 8, s. 124.

**128.** In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box, a statement of the ballot papers counted by him, the returning officer shall, in the meantime, use all reasonable efforts to ascertain the number of votes given for each candidate at the polling place of such deputy returning officer, and shall have the powers conferred by section 127. R.S.O. 1927, c. 8, s. 125.

When deputy returning officer has neglected to deliver statement of result.

**129.** The returning officer shall return the candidate having the largest number of votes, and shall mention specially in a report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. R.S.O. 1927, c. 8, s. 126.

Special report by returning officer.

#### RECOUNT OR FINAL ADDITION BY COUNTY JUDGE.

**130.**—(1) In this section and in sections 131 to 143 “judge” shall mean the judge of the county or district court and where there are two or more judges the senior judge, or a junior judge, in case of the illness or absence of the senior judge or where the senior judge requests him to act.

“Judge,”—meaning of.

(2) If within four days after that on which the returning officer has made addition of the votes for the purpose of declaring any candidate elected, upon the application of a candidate or a voter, it is made to appear by affidavit to the judge of the county court of the county in which the electoral district or any part of it is situate that a deputy returning officer has in counting the votes,

Where recount may be had.

- (a) improperly counted any ballot paper;
- (b) improperly rejected any ballot paper;
- (c) made an incorrect statement of the number of ballots cast for any candidate; or
- (d) that the returning officer has improperly added up the votes;

Deposit by  
applicant.

and if the applicant deposits within that time with the clerk of the county court the sum of \$100 in legal tender, or in the bills of any chartered bank doing business in Canada, as security for the costs, in connection with the recount or final addition, of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election.

What judge  
to hold re-  
count when  
district in  
two or more  
counties.

(3) Where an electoral district comprises parts of two or more counties the application shall be made to and the recount or final addition shall take place before the judge of the county court of the county having the larger or largest population according to the last Dominion census. R.S.O. 1927, c. 8, s. 127.

Notice of  
time and  
place of  
recount.

**131.** At least two days' notice in writing of the time and place appointed shall be given to the candidates and to the returning officer and the election clerk, and the judge may at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer, and the election clerk, may be substitutional, or be made by mail, or in such other manner as he thinks fit. R.S.O. 1927, c. 8, s. 128.

Returning  
officer to  
withhold  
return.

**132.** The returning officer after the receipt of the notice shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the judge of the result of the recount or final addition, and upon receipt of the certificate shall make his return. R.S.O. 1927, c. 8, s. 129.

Presence of  
county  
court clerk.

**133.** The judge may require the clerk of the county court to be present at the time and place appointed. R.S.O. 1927, c. 8, s. 130.

Summoning  
officers to be  
present with  
documents.

**134.**—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelope containing the ballot papers, or the original statements of the poll, as the case may be.

Production  
and custody  
of ballot  
papers on a  
recount.

(2) The ballot papers and original statements shall continue in the custody of the returning officer, and he shall be responsible for them, subject to any direction which the judge may give in respect thereto. R.S.O. 1927, c. 8, s. 131.

Who to be  
present at  
recount.

**135.**—(1) The returning officer and the election clerk shall be present at the recount or final addition, and each candidate shall be entitled to be represented by not more than three agents, and may himself be present.



(2) Where a candidate is not represented, any three voters who declare their desire to attend on his behalf, shall be entitled to attend. If candidate not represented.

(3) Except with the sanction of the judge, no other person shall be present. R.S.O. 1927, c. 8, s. 132. Authority of judge.

**136.** At the time and place appointed, and in the presence of such of the persons mentioned in section 135 as are present, the judge shall make such final addition from the statements contained in the ballot boxes returned by the deputy returning officers, or recount all the votes or ballot papers returned by the several deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing, Procedure by judge.

- (a) the used ballot papers which have been counted;
- (b) the rejected ballot papers;
- (c) the cancelled ballot papers;
- (d) the declined ballot papers;
- (e) the unused ballot papers.

R.S.O. 1927, c. 8, s. 133.

**137.**—(1) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment, and excluding, except so far as he and the persons present agree, the hours between six o'clock in the afternoon and nine in the succeeding forenoon. Recount to be proceeded with continuously.

(2) During such excluded time and time for refreshment the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seals of such of the other persons present as desire to affix their seals, and shall otherwise take all necessary precautions for the security of such papers and documents. R.S.O. 1927, c. 8, s. 134. Care of documents during proceedings.

**138.** The judge shall, in the case of a recount, proceed according to the rules for the counting of the ballot papers at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll (Form 35). R.S.O. 1927, c. 8, s. 135. Rules to govern judge in proceedings.

**139.**—(1) Upon the completion of the recount the judge shall seal up all the ballot papers in their separate envelopes, and upon the completion of a final addition he shall seal up the original statements in their respective envelopes. Sealing up ballots at close of recount.



Distinguishing disputed ballots.

(2) Where either party requests him to do so the judge shall number on the back the disputed ballots and enclose them in a separate envelope. R.S.O. 1927, c. 8, s. 136.

Reviewing decision of returning officer when ballot box or documents missing.

**140.**—(1) The judge shall, if necessary, or required, review the decision of the returning officer with respect to the number of votes given for a candidate at any polling place, where the ballot box used was not forthcoming when he made his decision, or when the proper statements or papers were not found therein.

Powers of judge.

(2) For the purpose of arriving at the facts, the judge shall have all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. R.S.O. 1927, c. 8, s. 137.

When judge to send in certificate.

**141.**—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow of an appeal as hereinafter provided.

When declaration of result to be given.

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or final addition, the judge shall certify the result to the returning officer forthwith, who shall then forthwith declare to be elected the candidate having the largest number of votes.

Casting vote if judge certifies equality of votes.

(3) In case of an equality of votes, the returning officer shall give the casting vote. R.S.O. 1927, c. 8, s. 138.

Costs.

**142.**—(1) The costs of the recount or final addition shall be in the discretion of the judge who may order by whom, to whom, and in what manner the same shall be paid.

Taxing and allowing costs.

(2) The judge shall tax the costs, and shall, as nearly as may be, follow the tariff of costs with respect to proceedings in the county court. R.S.O. 1927, c. 8, s. 139.

Deposits, disposal of.

**143.** Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. R.S.O. 1927, c. 8, s. 140.

Recovery of costs if deposit not sufficient.

### *Appeal from Decision on Recount or Final Addition.*

Appeal from decision of judge on recount.

**144.**—(1) If a party desires to appeal from the decision of the judge he may do so on giving notice in writing to the opposite party and to the judge of his intention to appeal

within two days after the completion of the recount or final addition, and he may by the notice limit the appeal to specified ballots.

(2) The notice may be served upon the opposite party personally, or upon the solicitor who acted for him upon the recount or final addition personally or at his office, or as a judge of the Court of Appeal may direct. Service of notice of appeal.

(3) Where the appeal is limited, the judge of the county court shall seal up the ballots which are the subject of appeal in a separate packet and shall forward them together with the notice and a certificate showing his findings as to the ballots in dispute by registered post to the registrar of the Court of Appeal, but if the appeal is not limited the judge shall forward all the ballot papers and other papers to the registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer. Ballots, etc., to be forwarded to registrar of Court of Appeal.

(4) The judge shall upon request allow each party to make a copy of the certificate of his findings before it is forwarded to the registrar of the Court of Appeal. Allowing copy of certificate of judge.

(5) On receipt of the ballot papers and notice the registrar shall forthwith obtain an appointment from a judge of the Court of Appeal for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing of appeal.

(6) The time appointed for hearing the appeal shall not be more than four days from the date of the appointment. When appeal may be heard.

(7) At the time appointed the judge of the Court of Appeal shall recount the ballot papers or such of them as are the subject of appeal, or review the final addition as the case may be, and shall forthwith certify his decision to the judge of the county court, whose duty it shall be to conform to the decision, and to certify the result without delay to the returning officer. Procedure on hearing of appeal; certificate of result.

(8) The judge of the Court of Appeal may direct by and to whom the costs of the appeal shall be paid. R.S.O. 1927, c. 8, s. 141. Costs of appeal.

#### ELECTION RETURN.

**145.**—(1) The returning officer shall immediately after the sixth day after the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes When return to be made.

given at the election, and where there has been a recount or final addition, immediately after the receipt of the certificate of the result, transmit his return (Form 40), to the Clerk of the Crown in Chancery that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate or copy thereof.

Report by  
returning  
officer.

(2) The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him. R.S.O. 1927, c. 8, s. 142.

Returning  
officer to  
transmit to  
Clerk of the  
Crown in  
Chancery  
the ballot  
papers, etc.

**146.**—(1) The returning officer shall at the same time transmit to the Clerk of the Crown in Chancery, enclosed in a box or other covering, securely locked, sealed with the seal of the returning officer, the writ, the list mentioned in subsection 5 of section 85, all the envelopes containing ballot papers in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers. R.S.O. 1927, c. 8, s. 143 (1); 1929, c. 5, s. 13.

Endorse-  
ment  
thereon.

(2) The returning officer shall endorse on the package a description of its contents, and the date of the election to which they relate, and also the name of the electoral district for which the election was held, and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election.

How to be  
sent.

(3) The package shall be sent by express or by registered post.

Oath of  
returning  
officer after  
transmitting  
return.

(4) An affidavit (Form 41), shall be made by the returning officer forthwith after transmitting his return, and shall be forthwith transmitted by him to the Clerk of the Crown in Chancery, by registered post. R.S.O. 1927, c. 8, s. 143 (2-4).

Returning  
unused  
material.

(5) The returning officer shall at the same time or within ten days thereafter transmit to the Clerk of the Crown in Chancery in a box or other covering, securely locked, and sealed with the seal of the returning officer, all the packages of ballot papers not distributed by him to the deputy returning officers, all ballot paper returned to him by the printer, all documents, papers, stationery and supplies in his possession, all receipts for paper given to him for ballot paper, and a record of all ballot paper supplied to him by the Clerk of the Crown in Chancery and a complete record of its disposal.

Endorse-  
ment on  
package.

(6) The returning officer shall paste upon the box mentioned in subsection 5, a label with the words "Unused Election

Material" and also the name of the electoral district and the date of the election written or printed thereon. 1929, c. 5, s. 14.

#### FAILURE TO MAKE RETURN.

**147.**—(1) If a returning officer wilfully delays, neglects or refuses,—

Application to compel returning officer to add up votes, make return, etc.

(a) to add up the votes;

(b) to declare to be elected the candidate having the largest number of votes;

(c) to give his casting vote where he is by law required to do so; or

(d) to make the return as required by this Act of the candidate having the largest number of votes;

the person aggrieved or any voter who voted at the election may apply to a judge of the Supreme Court for a mandamus commanding the returning officer to perform the duty which he is shown to have omitted.

(2) The notice shall be served upon the returning officer and upon any person who was a candidate at the election.

Notice of application.

(3) In other respects the provisions of *The Judicature Act* and of the rules made thereunder shall apply to such application.

Application of Rev. Stat., c. 100 and rules.

(4) Nothing in this section shall affect or impair any other right or remedy of the person aggrieved. R.S.O. 1927, c. 8, s. 144.

Other rights and remedies.

#### PUBLICATION OF RETURN.

**148.** The Clerk of the Crown in Chancery shall, on receiving the return of a member elected to the Assembly, give in the next ordinary issue of the *Ontario Gazette*, notice of the receipt of the return, the date of such receipt, and the name of the candidate elected. R.S.O. 1927, c. 8, s. 145.

Notice of return in Ontario Gazette.

#### CUSTODY OF ELECTION PAPERS.

**149.**—(1) The Clerk of the Crown in Chancery shall, subject to the provisions of this Act, retain in his possession the documents transmitted to him by a returning officer, under section 146, for at least one year, and if the election

How long to be retained and when to be destroyed.



is contested, then for one year after the termination of the contestation.

How to be kept by Clerk of the Crown in Chancery.

(2) The Clerk of the Crown in Chancery shall keep all documents relating to a general election in a room or vault separate from that in which documents relating to by-elections are kept.

Marking boxes when not to be destroyed.

(3) If notice of the presentation of a petition is received by the Clerk of the Crown in Chancery or, if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words, "Not to be destroyed." R.S.O. 1927, c. 8, s. 146.

#### INSPECTION OF DOCUMENTS, BALLOT PAPERS, ETC.

Inspection of other documents.

**150.** All documents forwarded by a returning officer in pursuance of this Act, to the Clerk of the Crown in Chancery, other than ballot papers, shall be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery with the approval of the Speaker of the Assembly, and the Clerk of the Crown in Chancery shall supply copies of or extracts from the documents to any person demanding the same, on payment at the rate of ten cents for each one hundred words, and in computing the number of words a figure shall be counted as a word. R.S.O. 1927, c. 8, s. 147.

Inspection to be under order of judge.

**151.**—(1) No person shall be allowed to inspect any ballot paper in the custody of the Clerk of the Crown in Chancery except under an order of a judge of the Supreme Court.

When order to be granted.

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of such ballot paper is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return.

Conditions of order.

(3) The order may be made subject to such conditions as the judge may think proper.

Where inspection to take place.

(4) Subject to the provisions of the order, the inspection shall take place under the immediate supervision of the registrar of the Court of Appeal at his office in Osgoode Hall, and he shall be present during the inspection, and so



long as the ballot papers are in the custody of the registrar and not under inspection, they shall be kept in a secure place under lock and key. R.S.O. 1927, c. 8, s. 148.

**152.** Where an order is made by a judge of the Supreme Court for the production by the Clerk of the Crown in Chancery of any document in his possession relating to an election, the production of it by the Clerk or his agent, in such manner as may be directed by the order, shall be evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballot papers so produced, shall be evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1927, c. 8, s. 149.

Evidence as to documents, ballot papers, etc., in certain cases.

**153.**—(1) Notwithstanding anything contained in sections 150, 151 and 152 all documents, including used and unused ballot papers, relating to an election, in the custody of the Clerk of the Crown in Chancery or of any other person, may be opened, inspected and examined under such conditions and regulations as may be made by the Committee on Privileges and Elections of the Assembly for the purpose of inquiring into any matter referred to the Committee by order of the Assembly, and upon any such proceeding before the said Committee any such document may be filed as an exhibit and any person summoned to attend and give evidence before the Committee upon such inquiry may be examined or cross-examined in relation thereto.

Inspection of documents under order of Privileges and Elections Committee.

(2) Upon such inquiry no person shall be excusable as a witness on any ground of privilege or upon the ground that his answer may expose him to criminal proceedings or to any penalties which may be imposed under any statute of Ontario. 1928, c. 3, s. 2.

Compellability of witnesses.

## PRESERVATION OF THE PEACE.

**154.** A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the closing of the election shall be a conservator of the peace, and shall be invested with all the powers appertaining to a justice of the peace. R.S.O. 1927, c. 8, s. 150.

Powers of returning officers and deputy returning officers.

**155.** A returning officer and a deputy returning officer may require the assistance of justices of the peace, constables and other persons, to aid him in maintaining peace and good order at the election and may also swear in as many special constables as he may deem necessary. R.S.O. 1927, c. 8, s. 151.

Assistance by justices and constables.

Special  
constables.

**156.** On a requisition in writing made by a candidate or by his agent, or by two or more voters, a returning officer or deputy returning officer shall swear in as many special constables as may be necessary. R.S.O. 1927, c. 8, s. 152.

Arrest and  
imprison-  
ment on  
verbal order.

**157.** A returning officer or deputy returning officer may arrest or by verbal order cause to be arrested, and placed in the custody of any constable or other person, any person disturbing the peace and good order at the election, and may cause such person to be imprisoned under an order signed by him until an hour not later than the close of the nomination or of the poll as the case may be. R.S.O. 1927, c. 8, s. 153.

### SECRECY OF PROCEEDINGS.

Maintaining  
secrecy of  
proceedings.

**158.**—(1) Every person in attendance at a polling place or at the counting of votes shall maintain and aid in maintaining the secrecy of the voting.

Interference  
with voters.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted.

Communi-  
cating in-  
formation  
as to how  
voter is  
voting.

(3) No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at such polling place is about to vote or has voted. R.S.O. 1927, c. 8, s. 154.

Inducing  
voter to  
display  
ballot after  
marking.

**159.** No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom he has voted. R.S.O. 1927, c. 8, s. 155.

Communi-  
cating in-  
formation  
as to number  
on back of  
ballot.

**160.** No person shall communicate at any time to any person any information as to the number on the back of the ballot paper given to any voter at a polling place under the provisions of section 108, except to a court or judge lawfully requiring him so to do, or attempt to ascertain at the counting of the votes the number on the back of any such ballot paper. R.S.O. 1927, c. 8, s. 156.

Voter not  
to display  
marked  
ballot.

**161.** Subject to the provisions of section 100, a voter shall not show his ballot paper, when marked, to any person so as to allow the name of the candidate for whom he voted to be known. R.S.O. 1927, c. 8, s. 157.

**162.** Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 42). R.S.O. 1927, c. 8, s. 158.

Oath of  
secrecy.

**163.**—(1) If a returning officer, election clerk, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated he shall communicate the particulars, with all convenient speed, to the Crown attorney.

Proceedings  
where  
officers  
aware of  
violation of  
secrecy.

(2) The Crown attorney shall, on receiving such information from such officer or from any other person, forthwith inquire into the case and if proper prosecute the offender. R.S.O. 1927, c. 8, s. 159.

Duty of  
Crown  
attorney  
thereon.

**164.** A person who has voted shall not in any legal proceeding questioning the election or return be compelled to state for whom he voted. R.S.O. 1927, c. 8, s. 160.

No one  
compellable  
to disclose  
his vote.

## CORRUPT PRACTICES AND OTHER ILLEGAL ACTS.

**165.**—(1) Every person who,—

Bribery, who  
guilty of.

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure, or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote, or refrain from voting or corruptly does any such act on account of any voter having voted or refrained from voting at an election;
- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce any voter to vote, or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election;
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any

Bribing  
voter or  
procuring  
bribery by  
money.

By gift or  
offer or  
promise of  
employment.

To induce  
anyone to  
procure  
return of  
candidate.

person in order to induce such person to procure or endeavour to procure the return of any person to serve in the Assembly, or the vote of any voter at an election;

Receiving  
bribe to  
procure  
return of  
candidate.

(d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavours to procure the return of any person to serve in the Assembly, or the vote of any voter at an election;

Advancing  
money to  
be spent in  
corrupt  
practices.

(e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in corrupt practices at an election, or knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election;

Applying  
for money  
or employ-  
ment in  
considera-  
tion of  
voting.

(f) directly or indirectly, himself or by any other person on his behalf, on account of, and as payment for voting or for his having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of, and as payment for his having illegally assisted or agreed to assist any candidate at an election, applies to such candidate, or to his agent, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment;

Receiving  
money,  
office, etc.,  
for having  
voted.

(g) before or during an election, directly or indirectly, himself, or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election;

Receiving  
money  
corruptly  
after  
election.

(h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election;

Giving or  
promising  
office to  
induce  
candidate  
to stand or  
withdraw.

(i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or



employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person; or

- (j) in order to induce a person to withdraw from being a candidate at an election directly or indirectly gives or lends, or offers or promises or agrees to give or lend, any money or valuable consideration to such person, or to any other person; Bribing candidate to retire.

shall be guilty of bribery, and shall incur a penalty of \$200 Penalty. and shall also on conviction be imprisoned for a term of six months.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. Saving as to personal expenses of candidates.

(3) The distribution by a candidate or his agent of political pamphlets or other political literature; or the sending or causing to be sent to voters by a candidate or his agent, newspapers containing political articles, reports of political meetings or other matters of public interest during such election or for a reasonable time prior thereto shall not be deemed corrupt or illegal acts or a contravention of this Act. R.S.O. 1927, c. 8, s. 161. Saving as to distribution of political literature.

**166.**—(1) A candidate shall not nor shall any other person provide or furnish meat, drink, refreshment or provision at the expense of such candidate or other person at a meeting of voters assembled for the purpose of promoting the election, previous to or during the election, or pay or promise or engage to pay therefor; but nothing herein contained shall extend to any meat, drink, refreshment or provision furnished to any such meeting of voters by or at the expense of any person at his usual place of residence, where such residence is a private house. Furnishing, meat, drink, etc., forbidden except at residence of the person furnishing.

(2) Every person offending against the provisions of this section shall be guilty of a corrupt practice and shall incur a penalty of \$100. R.S.O. 1927, c. 8, s. 162. Penalty.

**167.**—(1) Every candidate who corruptly, himself or by or with any person, or by any other way or means on his Treating.



behalf, at any time, either before or during an election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to vote or refrain from voting at an election, shall be guilty of a corrupt practice and shall incur a penalty of \$200 in addition to any other penalty to which he may be liable therefor.

Giving refreshments  
*prima facie*  
evidence of  
a corrupt  
practice.

(2) The giving of meat, drink, refreshment or provision to voters extensively or generally, by a candidate, or by his agent, or the taking part therein by either of them, or giving the same wholly or partly at the expense of a candidate or his agent, shall *prima facie* be a corrupt practice within the meaning of this section.

Habit of  
treating not  
sufficient  
answer.

(3) It shall not be a sufficient answer to a charge of a corrupt practice under this section that the person charged had been in the habit of treating. R.S.O. 1927, c. 8, s. 163.

Candidate  
betting.

**168.**—(1) A candidate who, before or during the election makes a bet or wager, or takes a share or interest in, or in any manner becomes a party to, a bet or wager, upon the result of the election in the electoral district or in any part thereof or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

Providing  
money for  
betting.

(2) A candidate or other person who provides money to be used by another in betting or wagering upon the result of the election in the electoral district or in any part thereof, or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

Other  
persons.

(3) A person who for the purpose of influencing an election makes a bet or wager on the result thereof in the electoral district or in any part thereof, or on any event or contingency relating thereto, shall be guilty of a corrupt practice. R.S.O. 1927, c. 8, s. 164.

Hiring  
conveyances  
to carry  
voters to  
poll.

**169.**—(1) A candidate who himself or by any other person on his behalf and every other person who—

- (a) hires or promises to pay or pays for a conveyance to carry a voter to, or near or from or on the way to or from a polling place; or
- (b) pays the travelling or other expenses of a voter in going to or returning from a polling place;

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer, to or near, or from or on the way to or from a polling place shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election; but this subsection shall not apply to the carrying of voters to the poll in the conveyance mentioned in clause *e* of subsection 2 of section 200. Exception.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election. Furnishing transportation to voters.  
R.S.O. 1927, c. 8, s. 165 (1, 2).

(3) "Conveyance," for the purposes of this section, shall include an automobile, a horse, team, carriage, cab, vehicle, boat or vessel. Hiring teams, etc.  
R.S.O. 1927, c. 8, s. 165 (3); 1934, c. 14, s. 5.

(4) Save as provided in subsection 1 nothing in this Act contained shall render it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge. Use of private vehicles.  
R.S.O. 1927, c. 8, s. 165 (4).

**170.** The giving or causing to be given to a voter on the nomination day or on polling day on account of his being about to vote or having voted, any meat, drink, refreshment or provision, or any money, ticket or order to enable him to procure the same, shall be a corrupt practice, and the person so offending shall incur a penalty of \$10. Providing refreshments on nomination day or polling day.  
R.S.O. 1927, c. 8, s. 166.

**171.**—(1) Every person who, directly or indirectly, him self, or by any other person on his behalf, uses or threatens to use force, violence, or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practices intimidation upon or against a voter in order to induce or compel him to vote, or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, includes or prevails upon a voter to vote or refrain from voting, shall be guilty of a corrupt practice and shall incur a penalty of \$200, and shall also upon conviction be imprisoned for one year. Undue influence.  
Penalty.

Pretence  
that ballot  
is not secret.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. R.S.O. 1927, c. 8, s. 167.

Personation.

**172.**—(1) A person who at an election applies for a ballot paper in the name of some other person whether that name be that of a person living or dead, or of a fictitious person, or who having voted applies at the same election for a ballot paper in his own name or who votes more than once at the same election, shall be guilty of the offence of personation.

Penalty.

(2) A person who commits or who directly or indirectly aids or abets, counsels or procures the commission of the offence of personation shall be guilty of a corrupt practice and shall incur a penalty of \$400, and shall also on conviction be imprisoned for one year. R.S.O. 1927, c. 8, s. 168.

Procuring  
appointment  
as deputy  
returning  
officer or  
poll clerk  
by fraud.

**173.** A person who procures an appointment as deputy returning officer or poll clerk by false pretence, deceit or other improper means, or who acts as deputy returning officer without lawful authority shall be guilty of a corrupt practice and shall incur a penalty of \$400, and shall also on conviction be imprisoned for one year. R.S.O. 1927, c. 8, s. 169.

Appointing  
persons as  
election  
officers who  
have been  
guilty of  
corrupt  
practices.

**174.** A person who knowingly appoints an election clerk, a deputy returning officer or a poll clerk, who has at any time been found guilty by a competent tribunal of a corrupt practice or reported by an election court for a corrupt practice shall be guilty of a corrupt practice and shall incur a penalty of \$400. R.S.O. 1927, c. 8, s. 170.

Voting by  
persons not  
entitled to  
vote to be a  
corrupt  
practice.

**175.** A person who votes knowing that he has no right to vote, and a person who induces or procures any other person to vote, knowing that such other person has no right to vote, shall be guilty of a corrupt practice, and shall incur a penalty of \$200. R.S.O. 1927, c. 8, s. 171.

Publishing  
false state-  
ment of  
withdrawal  
of candidate.

**176.** A person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or securing the election of another candidate, shall be guilty of a corrupt practice and shall incur a penalty of \$100, but the election of a candidate shall not be avoided by reason of a contravention of this section unless committed by him or by his agent. R.S.O. 1927, c. 8, s. 172.

CONSEQUENCES OF CORRUPT PRACTICES.

**177.** If an election court determines and reports that a corrupt practice has been committed by a candidate or by his agent, whether with or without the actual knowledge and consent of the candidate, the election of the candidate shall, except in the case mentioned in section 178, be void. R.S.O. 1927, c. 8, s. 173.

Corrupt practices by candidate or his agent to avoid election.

**178.** If the election court determines that an agent of the candidate was guilty of a corrupt practice that would otherwise render the election void, and further finds that,

When court finds candidate not personally guilty, then result not affected.

- (a) no corrupt practice was committed at such election by the candidate personally, and that the corrupt practice of the agent was committed contrary to the order and without the sanction or connivance of the candidate;
- (b) the candidate took all reasonable means for preventing the commission of corrupt practices at such election;
- (c) the corrupt practice was of a trivial, unimportant and limited character; and that
- (d) in all other respects, so far as disclosed by the evidence the election was free from any corrupt practice on the part of the candidate and of his agent;

then the election of the candidate shall not, by reason of the corrupt practice, be void. R.S.O. 1927, c. 8, s. 174.

**179.** No candidate or other person shall be disqualified or subject to any disability or penalty for a corrupt practice, except upon the judgment of an election court. R.S.O. 1927, c. 8, s. 175.

When disqualification incurred.

**180.—(1)** Subject to the provisions of subsection 2 where an election court determines and reports that a corrupt practice has been committed, by or with the actual knowledge and consent of a candidate, then in addition to his election, if he has been elected, being void, the candidate, during the eight years next after the date of his being so found guilty, shall be incapable of being elected to and of sitting in the Assembly or any municipal council and of being entered on any voters' list or registered as a voter and of voting at an election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor or any municipal office.

Candidate guilty of corrupt practice disqualified for eight years.



Saving  
where cor-  
rupt practice  
committed  
in excusable  
ignorance.

(2) If the election court or one of the judges thereof finds that an act constituting in law a corrupt practice was committed by a candidate, or with his actual knowledge and consent, but without any corrupt intent, and in an ignorance which was involuntary and excusable, and that the evidence showed that the candidate honestly desired, and in good faith endeavoured as far as he could, to have the election conducted according to law, the candidate shall not be subject to the penalties and disabilities which he would otherwise incur under subsection 1. R.S.O. 1927, c. 8, s. 176.

Disqualifi-  
cation of  
persons  
other than  
candidates.

**181.**—(1) Every person other than a candidate found guilty of a corrupt practice in a proceeding in which, after notice of the charge, he has had an opportunity of being heard, or who upon his own evidence given on the trial of a petition has been found to have been guilty of a corrupt practice and has been reported, therefor, unless such finding and report have been reversed or set aside on appeal under *The Controverted Elections Act* shall, during the eight years next after the date of his being found guilty, be subject to the penalties and disabilities mentioned in section 180.

Rev. Stat.,  
c. 11.

Exemptions.

(2) No person shall be subject to the penalties and disabilities referred to in subsection 1 by reason of,

(a) a mere technical breach of law; or

(b) an act not being an intentional violation of law.

R.S.O. 1927, c. 8, s. 177.

Appeal.

**182.** Where the judges who constitute the election court disagree as to a corrupt practice having been committed by a candidate or his agent there may be an appeal as provided by *The Controverted Elections Act*, and if the Supreme Court determines that a corrupt practice was committed, then unless the court is of opinion that the case falls within section 178, the election shall be void, but the candidate shall not be disqualified. R.S.O. 1927, c. 8, s. 178.

Rev. Stat.,  
c. 11.

Where  
second elec-  
tion held as  
result of  
protest.  
Effect of  
corrupt  
practices  
at first  
election.

**183.** If an election is set aside and a second election had, the second election shall be deemed to be a new election and shall not be avoided by reason of corrupt practices committed at the former election other than the personal acts of the candidate or of his agent done with his actual knowledge and consent, but the new election shall not be avoided for corrupt practices by the candidate at the former election or affecting the same which were not set up and proved at the trial and



so adjudged by the election court as by law to involve the penalties and disabilities mentioned in section 180. R.S.O. 1927, c. 8, s. 179.

**184.** If on the trial of an election petition a candidate or his agent is proved to have committed a corrupt practice with respect to a voter, there shall be struck off from the number of votes given for such candidate one vote for each voter in respect to whom the corrupt practice is proved to have been committed. R.S.O. 1927, c. 8, s. 180.

Votes to be struck off on scrutiny when corrupt practice is proved.

**185.** If on the trial of an election petition, a candidate is proved to have personally engaged any person, as a canvasser or agent, knowing that he has, within eight years previous to such engagement, been found guilty by a competent tribunal of or reported by an election court for a corrupt practice, the election of such candidate shall be void. R.S.O. 1927, c. 8, s. 181.

Election of candidate to be void for employing agent previously found guilty of corrupt practice.

**186.** If, at any time after a person has become disqualified, the witnesses or any of them on whose testimony he has become disqualified are convicted of perjury in respect of such testimony, the Supreme Court, upon the motion of the person disqualified and upon being satisfied that such disqualification was procured by reason of perjury, may order that the disqualification shall thereafter cease and determine. R.S.O. 1927, c. 8, s. 182.

Removal of disqualification on proof that disqualification was procured by perjury.

**187.** Every executory contract, promise or undertaking, in any way referring to, arising out of, or depending upon an election, even for the payment of lawful expenses, or the doing of a lawful act, shall be void. R.S.O. 1927, c. 8, s. 183.

Executory contracts arising out of elections to be void.

**188.** No pecuniary penalty or forfeiture shall be recoverable for a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the corrupt practice; but this provision shall not apply if the court or judge, before whom the person claiming the benefit thereof is charged, certifies that it clearly appears that the person so charged took the first step towards the commission of the offence, and that he was in fact the principal offender. R.S.O. 1927, c. 8, s. 184.

No statutory penalty for corrupt practice where the party charged has first prosecuted a party jointly liable.

Proviso.

## OFFENCES AND PENALTIES.

## GENERAL.

Returning officers, etc., wilfully falsifying or altering list of voters to incur penalty.

**189.** A returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll book, who wilfully makes any alteration or insertion in or omission from or in any way wilfully falsifies such certified list, polling list or poll book shall be guilty of a corrupt practice and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year. R.S.O. 1927, c. 8, s. 185.

Offences, relating to ballot papers.

**190.** Every person who,—

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) without authority supplies a ballot paper to any person; or
- (c) fraudulently places in a ballot box a paper other than the ballot paper which he is authorized by law to place therein; or
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) fraudulently takes a ballot paper out of the polling place; or
- (f) without authority, destroys, takes, opens, or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or
- (g) being a deputy returning officer, fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (h) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or

- (i) being authorized by the returning officer to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (j) attempts to commit any offence mentioned in this section,

shall be guilty of a corrupt practice and in the case of a returning officer, deputy returning officer or other officer engaged in the election, shall on conviction be liable to imprisonment for three years, and, in the case of any other person, shall on conviction be liable to imprisonment for one year. R.S.O. 1927, c. 8, s. 186.

**191.**—(1) A person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, or a return to a writ of election, or a poll book, voters' list, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, shall be guilty of a corrupt practice, and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year.

Persons unlawfully destroying, etc., documents relating to elections, etc.

(2) A person who aids, abets, counsels or procures the commission of a violation of subsection 1 shall be guilty of a corrupt practice and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year. R.S.O. 1927, c. 8, s. 187.

Abettors punishable.

**192.**—(1) A deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purpose of an election, shall incur a penalty of \$20 in respect of every such ballot paper.

Penalty for deputy returning officer omitting to initial ballots.

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 113 to 120 shall, for each refusal or neglect, incur a penalty of \$200. R.S.O. 1927, c. 8, s. 188.

Deputy returning officer or poll clerk neglecting duties.

**193.** A deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll shall be guilty of a corrupt practice and shall incur a penalty of \$200. R.S.O. 1927, c. 8, s. 189.

Wilful misconduct in counting ballots, etc.

**194.** A person who acts in contravention of sections 158, 159, 160 or 161 shall be liable, on conviction, to imprisonment for any term not exceeding six months. R.S.O. 1927, c. 8, s. 190.

Penalty for violating secrecy.

Penalty to persons aggrieved.

**195.** Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act, shall in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved thereby the sum of \$400. R.S.O. 1927, c. 8, s. 191.

How penalties under Act recoverable. Rev. Stat., c. 11.

**196.** Subject to the provisions of *The Controverted Elections Act*, and except as herein otherwise provided,—

(a) all pecuniary penalties imposed by this Act for offences not declared to be corrupt practices, and for offences not punishable by imprisonment alone, or in addition to a pecuniary penalty or fine, shall be recoverable by anyone who sues for the same in any court of competent jurisdiction, and the court shall order that in default of payment of the amount which the offender is condemned to pay, within the period fixed by the court, he shall be imprisoned for a term in the discretion of the court not exceeding one year unless the penalty and costs are sooner paid;

Statement of plaintiff's claim.

(b) it shall be sufficient for the plaintiff in any such action, to allege that the defendant is indebted to him in the sum claimed, and the particular offence for which the action is brought, and that the defendant had acted contrary to this Act;

Limitation of actions, mode of trial.

(c) the action shall be commenced within one year next after the act committed, or the omission complained of, and not afterwards, and shall be tried by a judge without a jury. R.S.O. 1927, c. 8, s. 192.

Prosecutions for corrupt practices punishable by imprisonment.

**197.** Prosecutions for penalties and punishments imposed by this Act for or in respect of corrupt practices and for offences for which imprisonment alone or in addition to a pecuniary penalty or fine is imposed shall be had and taken before an election court in the manner provided by *The Controverted Elections Act*. R.S.O. 1927, c. 8, s. 193.

Rev. Stat., c. 11.

Writ, etc., need not be produced at trial.

**198.** In any proceeding under sections 196 and 197, it shall not be necessary on the trial to produce the writ of election or the return thereto, or the authority of the returning officer founded upon the writ of election but general evidence shall be sufficient. R.S.O. 1927, c. 8, s. 194.

## ELECTION EXPENSES.

Appointment of official agent.

**199.**—(1) Every candidate shall appoint an official agent whose name and address shall be declared in writing to the returning officer, on or before the nomination day.



(2) In the event of the death or incapacity of an official agent the candidate shall forthwith appoint another official agent in his place, and give notice to the returning officer of the name and address of the person appointed, which shall be forthwith published by the returning officer at the expense of the candidate in the manner provided by section 61. R.S.O. 1927, c. 8, s. 195.

On death or incapacity of an agent—appointment of another.

**200.**—(1) No contribution, payment, loan, gift, advance or deposit of money or its equivalent in excess of \$50 shall be received by or on behalf of a candidate and no payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent.

Payments not to be made except through official agent.

(2) "Personal expenses" when used in this section shall include the following expenses, and payment therefor may lawfully be made by the candidate personally,—

"Personal expenses" of candidate, what to include.

- (a) reasonable and *bona fide* rent or hire of halls or other places used by the candidates personally in which to address public meetings of voters, and the expenses incurred in heating, lighting and cleaning the same;
- (b) reasonable, ordinary and necessary travelling and living expenses of the candidate;
- (c) reasonable, ordinary and necessary travelling and living expenses of one speaker for each meeting, who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate;
- (d) reasonable and ordinary charges for the hire and keep of horses and hire of conveyances for the use of the candidate in travelling to and from public meetings and in canvassing in the electoral district, and reasonable and ordinary charges for the services and maintenance of a driver;
- (e) reasonable and ordinary charges, for use by the candidate personally of not more than one conveyance, and the services of a driver, on the polling day.



*Onus probandi.*

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation, shall be upon the candidate.

Receipt of ordinary and reasonable charges, when not to disqualify voter.

(4) The contracting for or the receipt of the ordinary and reasonable charges,—

- (a) by the owner or possessor of a hall or room in which to hold *bona fide* public meetings for the purposes of the election; or
- (b) by a printer for printing voters' lists, election addresses or advertisements or notices of election meetings; or
- (c) by a regularly established livery-keeper for the hire of horses and vehicles used in connection with and for the proper purposes of the election, and not for carrying voters otherwise than by the candidate as provided by clause *e* of subsection 2;

shall be lawful and shall not disqualify him from voting. R.S.O. 1927, c. 8, s. 196.

Claims on candidate in respect of any election, when to be sent in to agent.

**201.**—(1) Every person who has any claim against a candidate for or in respect to an election, shall send in such claim within one month from the day of the declaration of the result of the election, to the official agent of the candidate, otherwise he shall be barred of his right to recover the same.

Case of death of person making claim.

(2) In case of the death within such month of any person having such claim, his legal representative shall send it in, within one month after probate or administration has been obtained, otherwise the right to recover the same shall be barred.

Case of death of agent.

(3) In case of the death of the official agent, or of his incapacity to act and no other agent having been appointed, such claim may be sent in or delivered to the candidate.

Agent not to pay without authority of candidate.

(4) No such claim shall be paid without the authority of the candidate, and the approval of the official agent. R.S.O. 1927, c. 8, s. 197.

Payment of lawful accounts rendered after one month from election.

**202.**—(1) Notwithstanding anything in section 201 contained, any claim which would have been payable if sent in within one month of the day of the declaration, may be paid by the candidate through his official agent after that time,

if such claim is approved by a judge of the Supreme Court, or by the judge of the county court of a county in which the electoral district or some part of it is situate.

(2) All claims allowed by a judge shall, within one week thereafter be advertised by the returning officer at the expense of the candidate in the same newspapers in which the statement of the other election expenses was published. R.S.O. 1927, c. 8, s. 198. Advertising claims.

**203.**—(1) A detailed statement of all money or its equivalent received as an election contribution, payment, loan, gift, advance or deposit and exceeding in amount or value \$50, and a detailed statement of all election expenses, incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall within two months after the election, or where, by reason of the death of the creditor, no claim has been sent in within such period of two months, then within one month after such claim has been sent in, be made out and signed by the official agent, who has paid the same, or by the candidate in case of payments made by him, and delivered, with the bills and vouchers relating thereto, to the returning officer. Statement of election expenses, etc., to be sent by agent to returning officers.

(2) The returning officer within fourteen days after receiving the statements, shall publish at the expense of the candidate an abstract thereof, in a newspaper published or circulating in the electoral district. Abstract thereof to be published.

(3) An agent or candidate who makes default in delivering the statements to the returning officer, shall incur a penalty not exceeding \$25 for every day during which he so makes default. Penalty for default in delivering statement.

(4) An agent or candidate who wilfully furnishes to the returning officer an untrue statement shall incur a penalty of \$400. R.S.O. 1927, c. 8, s. 199. Penalty for false statement.

**204.** The returning officer shall preserve all such statements, bills and vouchers, and shall during the six months next after they have been delivered to him permit any voter to inspect the same on payment of a fee of twenty-five cents. R.S.O. 1927, c. 8, s. 200. Returning officer to preserve bills, etc., and allow inspection.

#### FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

**205.**—(1) The fees and expenses to be allowed to the officers and other persons for their services and disbursements under Tariff of fees.

this Act shall be fixed by the Lieutenant-Governor in Council from time to time.

Payment of  
expenses  
of Act.

(2) The fees and expenses to be allowed to the returning officers, boards, and other officers and persons for services performed under this Act shall so far as the same are payable by the Province, be payable out of the Consolidated Revenue Fund.

Accountable  
warrants.

(3) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant-Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts  
and audit.

(4) The sums paid out under subsection 1 shall be duly accounted for by the production of accounts and vouchers certified as provided by subsection 5, but it shall not be necessary that such accounts or vouchers shall be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant-Governor in Council otherwise directs.

Audit by  
Auditor of  
Criminal  
Justice  
Accounts.

(5) All accounts and such fees and expenses shall be audited by the Auditor of Criminal Justice Accounts and upon the production of his certificate as to any amount remaining unpaid upon an account, the Treasurer of Ontario shall cause a cheque to be issued for the amount named in the certificate and the Provincial Auditor shall countersign the same.  
R.S.O. 1927, c. 8, s. 201.

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## SCHEDULE OF FORMS.

## FORM 1.

(Section 18, Paragraph 3.)

FORM OF OATH TO BE ADMINISTERED TO MALE VOTER IN TERRITORY  
WITHOUT MUNICIPAL ORGANIZATION.

You swear (a)—

1. That you are the person named or intended to be named in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you*).

2. That you are of the full age of twenty-one years.

3. That you are a British subject by birth;

(*or, at the option of the voter,*)

3. That you are a British subject by virtue of your naturalization before the 12th day of April, 1917 (*or by virtue of your naturalization since the 12th day of April, 1917*).

4. That you are not a citizen or subject of any foreign country.

5. That you have resided in the Province of Ontario for the twelve months last past.

6. That you were at the time of the entry of your name upon the polling list now shown to you in good faith a resident of and domiciled in the electoral district for which the list was prepared, and that you have resided in this electoral district continuously since the said date and that you are now actually resident and domiciled therein.

7. That you are not disqualified from voting and are qualified to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised to you, directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not, directly or indirectly, paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

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NOTE.—(a) If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

R.S.O. 1927, c. 8, Form 24.

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## FORM 2.

*(Section 18, Paragraph 3.)*FORM OF OATH TO BE ADMINISTERED TO FEMALE VOTER IN TERRITORY  
WITHOUT MUNICIPAL ORGANIZATION.

You swear (a)—

1. That you are the person named or intended to be named in the polling list now shown to you *(or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you)*.

2. That you are of the full age of twenty-one years.

3. That you are a British subject by birth and are unmarried *(or are married to a British subject)*.

*(or, at the option of the voter).*

3. That you are a British subject by virtue of your naturalization in your own right before the 12th day of April, 1917, *(or by virtue of your naturalization under the laws of Canada or Great Britain since the 12th day of April, 1917)*.

*(or, at the option of the voter).*

3. That you are a British subject by virtue of the naturalization of your parent as a British subject while you were a minor and have not become a subject of any foreign power or a citizen of any foreign state.

*(or, at the option of the voter).*

3. That you are married to *(or being a widow, you are the widow of)* a British subject and since your marriage to such British subject you have not done any act to cause yourself to become a subject of any foreign power or a citizen of any foreign state.

4. That you are not a citizen or subject of any foreign country.

5. That you have resided in the Province of Ontario for the twelve months last past.

6. That you were at the time of the entry of your name upon the polling list now shown to you in good faith a resident of and domiciled in the electoral district for which the list is prepared, and that you have resided in this electoral district continuously since the said date and that you are now actually resident and domiciled therein.

7. That you are not disqualified from voting and are qualified to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised to you, directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not, directly or indirectly, paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

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NOTE.—(a) If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

1935, c. 21, s. 5 and Sched.



## FORM 3.

(Section 19.)

AFFIDAVIT OF PERSON APPLYING TO BE ENTERED ON LIST AFTER CHANGE  
OF RESIDENCE.

I, (*insert full Christian name and surname*) of the (city, town, village or township) of (*name of municipality*), (*occupation*), make oath and say (*or in the case of a voter entitled to affirm*), solemnly affirm—

1. That I am of the full age of twenty-one years (*or I will be of the full age of twenty-one years on the*      day of      , being the date fixed for holding the poll at this election).

## [IN THE CASE OF A MALE VOTER.]

2. That I am a British subject;

*or*

2. That I am a British subject by virtue of my naturalization before the 12th day of April, 1917;

*or*

2. That I am a British subject by virtue of my naturalization under *The Naturalization Act, 1914*, (*or under The Naturalization Act, 1918*).]

## [IN THE CASE OF A FEMALE VOTER.]

2. That I am a British subject by birth and am unmarried (*or am married to a British subject*);

*or*

2. That I am a British subject by virtue of my naturalization in my own right before the 12th day of April, 1917, (*or by virtue of my naturalization in my own right under The Naturalization Act, 1914, or under The Naturalization Act, 1918*);

*or*

2. That I am a British subject by virtue of the naturalization of my parent as a British subject while I was a minor and have not become a subject of any foreign power or citizen of any foreign state;

*or*

2. That I am married to (*or being a widow, I am the widow of*) a British subject and since my marriage to such British subject I have not done any act to cause myself to become a subject of any foreign power or a citizen of any foreign state.]

3. That I have resided within the Dominion of Canada since the      day of      (*naming a date twelve months prior to the date fixed for holding the poll*).

4. That I was a resident of and domiciled in (*state municipality from which removal took place*) and was entered on the last revised voters' list for that municipality (*or was entitled to be entered on the last revised voters' list for such municipality*).

5. That had I remained a resident of such municipality I would have been entitled to be entered on the voters' list and to vote at this election therein.

6. That on the            day of            (*insert date of removal*) I removed from the said municipality to this city, (town, village or township), and am now resident at (*insert street number, lot and concession of place of residence*), and that such removal took place in the pursuit of my ordinary profession (*or occupation or calling*) and not for the purpose of enabling me to vote at this election in this municipality.

[*Or, in the case of a person who has moved from one electoral district to another as a member of the family or household, of a person who has so moved in the pursuit of his ordinary occupation or calling or business.*]

6. That on the            day of            (*insert date of removal*) I moved from the said municipality to this city, (town, village or township) with C. D. as a member of his family or household being the wife (*or son or daughter or other relation or dependent, naming the relationship or connection*) of the said C. D., who moved as aforesaid in the pursuit of his ordinary profession (*or occupation or calling*) and not as I verily believe for the purpose of enabling him or the members of his family to vote at this election.]

7. That I am now a resident of and domiciled in this municipality.

8. That I am not disqualified from voting at this election under *The Election Act* or otherwise by law prohibited from voting or from being entered upon the list.

9. That I have not received anything nor has anything been promised to me, directly or indirectly, to induce me to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. And that I have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

Sworn (*or affirmed*) before me

at

this    day of            , 19    .

C.D.,  
Commissioner, etc.

A. B.  
(*Signature of applicant*).

1935, c. 21, s. 5 and Sched.

FORM 4.

(Section 19.)

CERTIFICATE OF REVISING OFFICER OR JUDGE AS TO PERSON REMOVING  
FROM ONE ELECTORAL DISTRICT TO ANOTHER.

County of

To Wit:

I, 

(name of revising officer or judge)

  
do certify that 

(insert

name of voter

), having duly filed with me the affidavit required by  
section 19 of *The Election Act*, as having removed into the electoral  
district of 

(insert

name of district

) within two months from the day fixed for holding the  
poll at the election of a member to serve in the Assembly for the said  
electoral district and having satisfied me that he is entitled to be entered  
on the list of voters in the municipality of  
and to vote therein at the poll to be held on the 

day of

I have caused his name to be entered upon

  
the list of voters for polling subdivision No. 

in the

  
of 

as provided by the said Act, and I believe him to be

  
duly entitled to vote at the said poll.

Given under my hand and seal  
this 

day of

, 19 

.

Revising Officer.

or Judge,

(as the case may be.)

## FORM 5.

*(Sections 25 and 74.)*

## DIRECTIONS FOR THE GUIDANCE OF VOTERS.

The voter is to vote only for one candidate.

The voter shall go into one of the compartments and, with a black lead pencil there provided, place a cross within the white space containing the name of the candidate for whom he votes, thus X.

The voter shall then fold the ballot paper so that the initials on the back and the number on the counterfoil can be seen without opening it; he shall then return the ballot paper so folded to the deputy returning officer, who shall, in full view of those present including the voter, remove the counterfoil, destroy the same, and place the ballot paper in the ballot box; the voter shall then forthwith leave the polling place.

If a voter inadvertently spoils a ballot paper so that he cannot conveniently use it as he desires, he may return it to the deputy returning officer, who will give him another.

If the voter votes for more than one candidate, or places any mark on the ballot paper by which he can be identified, his vote will be void and will not be counted.

If the voter fraudulently takes a ballot paper out of the polling place, or fraudulently delivers to the deputy returning officer, to be placed in the ballot box, any other paper than the ballot paper given him by the deputy returning officer, he will be liable to imprisonment for one year.

In the following form of ballot paper, given for illustration, the candidates are Wm. R. Brown, Frank Hamon, Joseph O'Neil and John R. Smith, and the voter has marked his ballot paper in favour of John R. Smith, and the counterfoil has been detached.

FORM 5.—(*Continued*)


1 WM. R. BROWN  
of the City of Toronto, Barrister.



2 FRANK HAMON  
of the City of Toronto, Artist.



3 JOSEPH O'NEIL  
of the City of Toronto, Gentleman.



4 JOHN R. SMITH  
of the City of Toronto, Merchant.

X



## FORM 6.

(Section 25 (1).)

*To be put up at all Polling Places.*

## NOTICE AS TO SECRECY OF VOTING.

It is the sworn duty of every person in attendance at this polling place, or at the counting of the votes, not to attempt to ascertain how any person is about to vote or has voted; and not to communicate any information obtained at the polling place which may enable or assist any person to ascertain how any person has voted.

It is further the sworn duty of every such person, by all proper means to maintain, and aid in maintaining, the absolute secrecy of the voting at this polling place.

Any person who acts in contravention of his duty in any of the said particulars is liable to imprisonment for any term not exceeding six months.

By *The Election Act*, it is further provided, that no person shall destroy, take, open or otherwise interfere with any ballot box or book or packet of ballot papers or a ballot paper or ballot in use for the purposes of the election, or shall attempt to do so; and that any returning officer, deputy returning officer or other officer engaged in the election who is guilty of any violation of that provision shall be liable to imprisonment for three years, and any other person guilty of such violation to imprisonment for one year. (*Section 190.*)

The said Act further provides that, in addition to every other penalty and liability, any officer engaged in the election who is guilty of any wilful act or omission in contravention of the Act, shall forfeit to any person aggrieved thereby the sum of \$400. (*Section 195.*)

A. B.,  
Clerk of the Crown in Chancery.

R.S.O. 1927, c. 8, Form 4.

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FORM 7.

(See Sections 26, 86).

FORM OF POLL BOOK

R.S.O. 1927, c. 8, Form 5.	
Consecutive Number	NAMES OF VOTERS.
	Place of Residence.
	Occupation.
	Objections.
	Sworn or affirmed.
	Refused to swear or affirm or to answer.
	Marks indicating that Voter has voted.
	REMARKS.

## FORM 8.

(Section 36.)

### OATH OF RETURNING OFFICER.

I, A. B., Returning Officer for the Electoral District of \_\_\_\_\_ swear (or solemnly affirm) that I am legally qualified to act as Returning Officer for the said Electoral District, and that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (or affirmed) before me at  
the of this  
day of , 19 .

A Commissioner, etc.  
(or as the case may be).  
See section 9.

A. B.,  
Returning Officer.

R.S.O. 1927, c. 8, Form 6.

## FORM 9

(Section 37.)

PROCLAMATION OF THE RETURNING OFFICER DECLARING THE TIME AND PLACE FOR THE NOMINATION OF CANDIDATES, AND THE DAY FOR OPENING THE POLL.

## PROCLAMATION

Electoral District of

Public Notice is hereby given that in obedience to His Majesty's Writ to me directed, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I require the presence of the voters at the Town Hall or (*as the case may be*), in the County (*or Township, or City, or Town*) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, from one o'clock until two o'clock in the afternoon, for the purpose of nominating a person (*or persons, as the case may be*) to represent them in the Legislative Assembly; and notice is further given that in case a poll is demanded and allowed in the manner by law prescribed, such poll will be opened on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, from the hour of eight o'clock in the forenoon until seven o'clock in the afternoon as follows:—

For the polling subdivision No. 1, consisting of (or bounded as follows:—  
or otherwise describing it clearly) at  
(describing the polling place and so continuing for all the other polling sub-  
divisions and polling places in the electoral district).

And further, that at (describe place where votes will be added up) on the \_\_\_\_\_ day of \_\_\_\_\_ at the hour of \_\_\_\_\_, I shall open the ballot boxes, add up the votes given for the several candidates and declare to be elected the one having the largest number of votes.

Of which all persons are hereby required to take notice, and to govern themselves accordingly.

God Save the King.

Given under my hand at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_  
in the year 19\_\_\_\_.

A. B.,  
Returning Officer.

R.S.O. 1927, c. 8, Form 7.

## FORM 10.

(Section 43 (1).)

COMMISSION OF ELECTION CLERK.

To E. F. (set forth his residence and occupation).

In my capacity of Returning Officer for the Electoral District of \_\_\_\_\_, I hereby appoint you to be my Election Clerk, to act in that capacity at the approaching election for the said Electoral District, which election will be opened by me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (the date to be inserted here is the day of nomination).

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

A. B.,  
Returning Officer.

R.S.O. 1927, c. 8, Form 8.

## FORM 11.

(Section 44.)

### OATH OF ELECTION CLERK.

I, *E. F.*, appointed Election Clerk for the Electoral District of \_\_\_\_\_, swear (*or solemnly affirm*) that I am legally qualified to act as Election Clerk and that I will act faithfully in that capacity and also in that of Returning Officer, if required to act in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (or affirmed) before me at  
the                      of                      this  
day of                      , 19                      .

E. F.,  
Election Clerk.

A Commissioner, etc.  
(or as the case may be).  
See section 9.

R.S.O. 1927, c. 8, Form 9.





## FORM 15

(Section 65.)

## COMMISSION OF DEPUTY RETURNING OFFICER

To G. H. (*Insert his residence and occupation*).

In my capacity of Returning Officer for the Electoral District of \_\_\_\_\_ I hereby appoint you to

be Deputy Returning Officer for Polling Place No. \_\_\_\_\_

of the Township (*or as the case may be*) of \_\_\_\_\_

in the said Electoral District, there to take the votes of the voters and you are hereby authorized and required to open and hold the poll at the said Polling Place on the \_\_\_\_\_

day of \_\_\_\_\_, 19\_\_\_\_, at eight o'clock in the forenoon, at

(*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and

to do and perform in such polling place all acts and duties required to be performed by the Deputy Returning Officer appointed to act therefor,

and after counting the votes given, to return to me forthwith the ballot box sealed with your seal and enclosing the ballots, envelopes, polling list,

and other documents required by law, together with this Commission.

Given under my hand this \_\_\_\_\_

day of \_\_\_\_\_, 19\_\_\_\_

A. B.,

Returning Officer.

R.S.O. 1927, c. 8, Form 13.

## FORM 16.

(Section 66.)

## OATH OF DEPUTY RETURNING OFFICER.

I, \_\_\_\_\_

G. H., appointed Deputy Returning Officer

for Polling Place No. \_\_\_\_\_

of the Township (*or as the case may be*) of \_\_\_\_\_, swear (*or solemnly affirm*) that I am

legally qualified to act as Deputy Returning Officer and that I will act

faithfully, in that capacity, without partiality, fear, favour or affection.

So help me God.

Sworn (*or affirmed*) before me at \_\_\_\_\_

the \_\_\_\_\_ of this \_\_\_\_\_

day of \_\_\_\_\_, 19\_\_\_\_.

A Commissioner, etc.

(*or as the case may be*).

See section 9.

G. H.

Deputy Returning Officer.

R.S.O. 1927, c. 8, Form 14.

## FORM 17.

*(Section 72 (8).)*

## FORM OF BALLOT PAPER.

*(Front.)*

The black line above the first name shall extend to the upper edge, and the black line below the last name shall extend to the lower edge of the ballot paper, and all black lines be prolonged to the edge of the paper. The black margin to the left represents the counterfoil and the space to the left of the counterfoil represents the stub. There shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

1

WM. R. BROWN

of the City of Toronto, Barrister.

2

FRANK HAMON

of the City of Toronto, Artist.

3

JOSEPH O'NEIL

of the City of Toronto, Gentleman.

4

JOHN R. SMITH

of the City of Toronto, Merchant.

FORM 17.—(Continued)

FORM OF BALLOT PAPER.

(Back)

No. 325.

No. 325.

POLL BOOK

No. ....

D. R. O.  
INITIALS

ELECTORAL DISTRICT  
OF

19

FORM 18.

(Section 72 (5).)

RECEIPT OF RETURNING OFFICER FOR BALLOT PAPER RECEIVED FROM  
CLERK OF THE CROWN IN CHANCERY.

I,....., Returning Officer for the Electoral District of  
....., do hereby acknowledge that I have this day received  
from the Clerk of the Crown in Chancery.....sheets of ballot  
paper,.....ballots to the sheet, total weight.....  
the same being for use at the vote to be taken on the.....day  
of....., 19...

Dated this.....day of....., 19...

.....  
Returning Officer.

1929, c. 5, s. 15 and Sched.

.....  
.

FORM 19.

(Section 72 (7).)

RECEIPT OF PRINTER FOR BALLOT PAPER RECEIVED FROM RETURNING  
OFFICER.

I (or We) do hereby acknowledge receipt of.....sheets of  
ballot paper.....ballots to the sheet, from the Returning  
Officer for the Electoral District of.....the same to be  
printed as per instructions for use at the vote to be taken on the.....  
day of....., 19...

Dated this.....day of....., 19...

.....  
Printer.

1929, c. 5, s. 15 and Sched.

.....

## FORM 20.

(Section 72 (12).)

AFFIDAVIT OF PRINTER.

Electoral District of { I,  
swear (*or* solemnly affirm)

(1) That by direction of the Returning Officer for the above named Electoral District, I printed the ballot papers for use at the election to be held on the ..... day of ..... 19... (*insert date of polling*) on the paper furnished by him for that purpose.

(2) That the annexed form shows the description of the ballot papers printed by me as aforesaid.

(3) That I supplied the Returning Officer with.....of such ballot papers.

(4) That I returned to the Returning Officer.....spoiled ballot papers and.....unused sheets of ballot papers.

(5) That no other such ballot papers were printed by or supplied by me to anyone.

Sworn (*or affirmed*) before me at the  
day of                of                this  
                                , 19                .  
  
A Commissioner, etc.  
(*or as the case may be*).  
See Section 9.

(The Returning Officer will be particular to see that copy of ballot paper is annexed).

1929, c. 5, s. 15 and Sched.

## FORM 21.

(Section 74 (2).)

## RECEIPT FOR BALLOT PAPERS RECEIVED FROM RETURNING OFFICER.

(Count your ballots, fill in this Form and forward at once to Returning Officer).

....., 19.....

I, ....., Deputy Returning Officer for Polling Sub-division No. .... in the Electoral District of ..... hereby acknowledge that I have received from Mr. ...., Returning Officer for the said Electoral District, ..... books of ballot papers and have carefully examined and counted them and find that they contain ..... ballots.

Deputy Returning Officer.

1929, c. 5, s. 15 and Sched.



## FORM 22.

(Sections 78, 80.)

## OATH OF POLL CLERK.

I, *I. J.*, appointed Poll Clerk for Polling Place No. \_\_\_\_\_ of the Township (*or as the case may be*) swear (*or solemnly affirm*) that I am legally qualified to act as Poll Clerk and that I will act faithfully in that capacity and also in that of Deputy Returning Officer, if required to act in that capacity according to law, without partiality, fear, favour or affection.

So help me God.

Sworn (*or affirmed*) before me at  
the \_\_\_\_\_ of \_\_\_\_\_ this  
day of \_\_\_\_\_, 19\_\_\_\_

A Commissioner, etc.  
(*or as the case may be*).  
See Section 9.

*I. J.*,  
Poll Clerk.

R.S.O. 1927, c. 8, Form 19.

## FORM 23.

(Sections 78 (1), 81.)

## COMMISSION OF POLL CLERK.

To *I. J.* (*Insert his residence and occupation*).

In my capacity of Deputy Returning Officer for the Polling Place No. \_\_\_\_\_, of the Township (*or as the case may be*), I hereby appoint you to be Poll Clerk for the said Polling Place.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*G. H.*,  
Deputy Returning Officer.

R.S.O. 1927, c. 8, Form 18.

FORM 24.

(Section 85.)

CERTIFICATE OF RETURNING OFFICER FOR OUTSIDE VOTERS.

I,  
for the Electoral District of  
of  
of  
an elector of the said Electoral District, who has been appointed Deputy  
Returning Officer (or Poll Clerk, or Agent) for  
one of the Candidates at this election, (as the case may be) for polling  
subdivision No. , of the Township of  
(or as the case may be) in the said Electoral District do hereby certify  
that the said is entitled to vote at this  
election at the polling place for the said polling subdivision, being the  
polling place where he is to be stationed during the polling day.

Returning Officer  
at the request  
of the  
Merchant (or as the case may be),

.....  
.....19.....

Returning Officer.

NOTE.—The above certificate is not to be signed by the returning officer until the name, residence and occupation of the person to whom it is to be granted have been inserted therein.

R.S.O. 1927, c. 8, Form 20.

FORM 25.

(Section 88 (4).)

NOTICE OF HOLDING AN ADVANCE POLL (OR POLLS) FOR RAILWAY  
EMPLOYEES, SAILORS AND TRAVELLERS.

Electoral District of.....

Notice is hereby given that pursuant to the provisions of *The Election Act* (section 88) a poll will be opened on.....and.....  
the.....and.....days of.....from  
eight o'clock in the forenoon until five o'clock in the afternoon, and from  
seven o'clock in the afternoon until ten o'clock in the afternoon.

The polling place for the Electoral District of.....  
will be located at.....for the purpose of receiving the  
votes of railway employees, sailors and travellers whose employment is  
such as to necessitate their absence from time to time from their ordinary  
place of residence, or who have reason to believe that they will be absent  
upon the day fixed for the election.

The ballot box will be opened and the votes counted at.....  
o'clock in the.....of.....  
the.....day of.....at the said place.

Dated at.....this.....day of....., 19 ..

.....  
Returning Officer.

1934, c. 14, s. 6.

## FORM 26.

(Section 89 (2).)

## APPOINTMENT OF PROXY.

I, ..... of the ..... of .....  
 in the County of ..... in the Province of Ontario, being  
 a voter entered on the Voters' List, with a right to vote at the pending  
 Ontario Election in the Municipality of ..... in the Electoral  
 District of ..... in the Province of Ontario, hereby  
 nominate and appoint ..... of .....  
 in the County of ..... as my true and lawful  
 (occupation)  
 attorney for me and in my name to vote at the said Election;

AND I HEREBY CERTIFY that I am a British subject, of the full  
 age of twenty-one years, and otherwise entitled to vote at the said Election.

IN WITNESS WHEREOF I have hereunto set my hand on board the  
 Steamship ..... this ..... day of  
 ..... A.D. 19....

WITNESS:

}

1929, c. 5, s. 15 and Sched.

## FORM 27.

(Section 89 (5).)

## CERTIFICATE OF REVISING OFFICER.

I, *A.B.*, the revising officer duly appointed under *The Voters' Lists Act*  
 for the purpose of revising the voters' list to be used at the election now  
 pending for the Electoral District of .....  
 do certify that *C.D.*, a voter entered on the voters' list, and having the  
 right to vote at the pending election in the Municipality of .....  
 in the Electoral District of ..... , duly appeared  
 before me at my sittings for the revision of the lists for the Municipality of  
 ..... , and that upon the evidence there tendered  
 by him (*or on his behalf*) I find that *E.F.*, named in this appointment as  
 a mariner, is duly qualified to vote at the said pending election, and that  
 the said *C.D.* is a person duly qualified to act as proxy for the said mariner  
 and to vote on his behalf at the said election.

Dated this ..... day of ..... , 19....

.....  
 Revising Officer.

1929, c. 5, s. 15 and Sched.

## FORM 28.

*(Section 89 (7).)*

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FORM OF OATH TO BE ADMINISTERED TO A PROXY VOTING FOR A MARINER.

You swear—

(1) That you are a proxy for the person named by the name of.....  
.....in the polling list now shown to you  
and that the said mariner is the person executing said proxy.

(2) That the said mariner is of the full age of twenty-one years.

(3) That the said mariner is a British subject.

(4) That the said mariner is not a citizen or subject of any foreign country.

(5) That the said mariner has resided within the Dominion of Canada for the twelve months last past, except for temporary absences as a mariner.

(6) That the said mariner has resided in the electoral district continuously for the two months last past, and is now actually resident or domiciled therein except for such temporary absences as a mariner.

(7) That the said mariner is not disqualified from voting at this election and is entitled to vote at this election and at this polling place.

(8) That you verily believe that the said mariner has not voted before at this election or at any other polling place.

(9) That you verily believe that the said mariner has not received anything or has anything been promised him directly or indirectly to induce him to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

(10) That you verily believe that the said mariner has not directly or indirectly promised anything to any person to induce him to vote or refrain from voting at this election.

(11) That you have not been paid or promised or received anything for or in connection with voting on behalf of the said mariner and that you verily believe that the said mariner executed the said proxy in good faith.

(12) That you are voting on his behalf in good faith at this election.

So help you God.

1929, c. 5, s. 15 and Sched.

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## FORM 29.

(Sections 94, 95.)

## FORM OF OATH OF ALLEGIANCE.

You swear (a) that you will be faithful and bear true allegiance to His Majesty, King George the Sixth (*or the reigning Sovereign for the time being*) as lawful Sovereign of Great Britain, Ireland and the Dominions beyond the Seas, and that you will defend Him to the utmost of your power against all traitorous conspiracies or attempts whatever which may be made against His Person, Crown and Dignity, and that you will do your utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which you may know to be against Him or any of them; And all this you do swear without any equivocation, mental evasion or secret reservation. So help you God.

NOTE.—(a) If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm."

1935, c. 21, s. 5 and Sched.

## FORM 30.

(Sections 94, 95.)

## FORM OF OATH TO BE ADMINISTERED TO MALE VOTER QUALIFIED UNDER SECTION 18, PARAGRAPH 1.

You swear (a)—

1. That you are the person named by the name of in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act*), that you are the person named in the certificate now shown to you;

2. That you are of the full age of twenty-one years;

3. That you are a British subject by birth,—

*or, at the option of the voter.*

3. That you are a British subject by virtue of your naturalization before the 12th day of April, 1917 (*or by virtue of your naturalization under The Naturalization Act, 1914, or under The Naturalization Act, 1918*).

4. That you are not a citizen or subject of any foreign country.

5. That you have resided within the Dominion of Canada for the twelve months last past. (b).

6. That you were resident in this electoral district at the date of the issue of the writ of election and have resided continuously since that date—(b)—and now are actually resident and domiciled therein.

(This to be used in cities, separated towns or townships to which Part IV of *The Voters' Lists Act* applies).

*(or, at the option of the voter.)*

6. That you have resided in this electoral district continuously for two months next preceding the day of polling—(b)—and are now actually resident and domiciled therein.

(This applies to all electoral districts to which Part IV of *The Voters' Lists Act* does not apply).



(*or, at the option of the voter.*)

6. That you are the person named in the certificate now produced by you and issued under section 19 of *The Election Act* and have been since the issue of the said certificate and are now actually resident and domiciled in this electoral district.

(This to be used in the case of a voter who is the holder of a certificate issued under section 19.)

7. That you are not disqualified from voting at this election, and are entitled to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised you, directly or indirectly, to induce you to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election. So help you God.

NOTE.—(a) If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm."

(b) In case the voter has been temporarily absent, insert the following words "except occasionally or temporarily, or as a member of a permanent militia corps enlisted for continuous service, or on service as a member of the active militia, or as a student in attendance at an institution of learning in the Dominion of Canada, that is to say (*here name institution*) as the case may be.

1935, c. 21, s. 5 and Sched.

# FORM 31.

(Sections 94, 95.)

## FORM OF OATH TO BE ADMINISTERED TO FEMALE VOTER QUALIFIED UNDER SECTION 18, PARAGRAPH 1.

You swear (a)—

1. That you are the person named by the name of in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act*), that you are the person named in the certificate now shown to you;

2. That you are of the full age of twenty-one years.

3. That you are a British subject by birth and are unmarried (*or are married to a British subject*).

*or*

3. That you are a British subject by virtue of your naturalization in your own right before the 12th day of April, 1917, (*or by virtue of your naturalization under the laws of Canada or Great Britain since the 12th day of April, 1917*);

*or*

3. That you are a British subject by virtue of the naturalization of your parent as a British subject while you were a minor and have not become a subject of any foreign power or a citizen of any foreign state;

or

3. That you are married to (*or* being a widow, you are the widow of) a British subject and since your marriage to such British subject you have not done any act to cause yourself to become a subject of any foreign power or a citizen of any foreign state.

4. That you are not a citizen or subject of any foreign country.

5. That you have resided within the Dominion of Canada for the twelve months last past.

6. That you were resident in this electoral district at the date of the issue of the writ of election and have resided continuously since that date—(*b*)—and now are actually resident and domiciled therein.

(This to be used in cities, separated towns or townships to which Part IV of *The Voters' Lists Act* applies.)

or

6. That you have resided in this electoral district continuously for two months next preceding the day of polling—(*b*)—and are now actually resident and domiciled therein.

(This applies to all electoral districts to which Part IV of *The Voters' Lists Act* does not apply.)

or

6. That you are the person named in the certificate now produced by you and issued under section 19 of *The Election Act*, and have been since the issue of the said certificate and are now actually resident and domiciled in this electoral district.

(This to be used in the case of a voter who is the holder of a certificate issued under section 19.)

7. That you are not disqualified from voting at this election and are entitled to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised to you, directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election. So help you God.

---

NOTE.—(*a*) If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

(*b*) In case the voter has been temporarily absent, insert the following words "except occasionally or temporarily, or as a student in an institution of learning in Canada, that is to say (*naming the institution*) as the case may be."

1935, c. 21, s. 5 and Sched.

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## FORM 32

(Section 95.)

FORM OF OATH TO BE ADMINISTERED TO VOTER QUALIFIED UNDER SECTION 18, PARAGRAPH 2, AND MARKED "S.F." ON POLLING LIST.

You swear (a)—

1. That you are the person named, or intended to be named, by the name of \_\_\_\_\_, in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you*).

2. That you are a British subject.

3. That you served in the military or naval forces of Great Britain or Canada (*or any other British Dominion or possession, or in the military or naval forces of one of Great Britain's Allies in the late war with Germany, naming the force in which the voter served*).

4. That you have not before voted at this election at this or any other polling place.

5. That you have not received anything nor has anything been promised to you directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

6. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election. So help you God.

---

NOTE.—(a) If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm."

R.S.O. 1927, c. 8, Form 23.

## FORM 33.

(Section 100.)

FORM OF OATH OF INABILITY TO READ.

I, A.B., of \_\_\_\_\_ swear (*or solemnly affirm*) that I am unable to read [*or that I am from physical incapacity unable to mark a ballot paper, (as the case may be)*].

Sworn (*or affirmed*) before me at \_\_\_\_\_  
 in the County of \_\_\_\_\_  
 this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 Having been first read over to the  
 above named A. B., and signed by  
 him in my presence with his mark.

A. B. (*His X mark.*)

Deputy Returning Officer.)

R.S.O. 1927, c. 8, Form 26.

## FORM 34.

(Section 100 (3).)

### OATH OF FRIEND OF BLIND VOTER.

I, ..... of the .....  
                   (insert name of friend)  
 of ..... in the County of .....  
                   (occupation)  
 swear that I will keep secret the  
 name of the candidate for whom I mark the ballot of .....  
 ..... on whose behalf I act, so help me God.  
                   (name of blind voter)

SWORN before me  
at the.....  
of....., in  
the.....of.....  
this.....day  
of....., 19.....

.....  
Signature of friend.

Deputy Returning Officer.

1933, c. 13, s. 12.

## FORM 35.

(Sections 117 (1), 138.)

STATEMENT OF THE POLL AFTER COUNTING THE BALLOTS.

Polling Place No.  
Electoral District of

Number of ballot papers received from the returning officer.....		
Number of ballots cast for.....		
“ “ “ “ “ .....		
“ “ “ “ “ .....		
“ “ “ “ “ .....		
“ “ “ “ “ .....		
“ “ “ “ “ .....		
Number of ballot papers declined (Section 107) ..		
Number of ballot papers taken from polling place (Section 107) .....		
Number of ballot papers cancelled (Section 109) ..		
Number of ballot papers rejected (Section 114) ..		
Number of ballot papers not used and returned ..		
Totals .....		

We hereby certify that the above statement is correct.

Dated at \_\_\_\_\_, 19\_\_\_\_

A. B.,  
Deputy Returning Officer.

Poll Clerk,

(Candidates or agents may also sign.)

R.S.O. 1927, c. 8, Form 27.

FORM 36.

(Section 117 (3).)

CERTIFICATE TO BE DELIVERED TO CANDIDATES, ETC.

I, the undersigned, Deputy Returning Officer for polling place No. \_\_\_\_\_  
in the \_\_\_\_\_ of \_\_\_\_\_ in the electoral  
district of \_\_\_\_\_, do hereby certify that, at  
the election held this day, for a member to serve in the Legislative  
Assembly, the hereinafter mentioned candidates received the number of  
ballots set opposite their respective names, viz.:—

NAMES OF CANDIDATES	NUMBER OF BALLOTS
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

and also that \_\_\_\_\_ ballot papers were rejected.

Dated at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

G. H.,  
Deputy Returning Officer.

R.S.O. 1927, c. 8, Form 28.

FORM 37.

(Section 118.)

OATH OF THE POLL CLERK AFTER CLOSING OF THE POLL.

I, \_\_\_\_\_ Poll Clerk for Polling Place No. \_\_\_\_\_  
of the Electoral District of \_\_\_\_\_, swear (or solemnly  
affirm) that the poll book for the said polling place kept under the direction  
of G. H., who acted as Deputy Returning Officer, has been kept by me  
correctly to the best of my skill and judgment; that the total number of  
votes polled according to the said poll book is \_\_\_\_\_;  
and that to the best of my knowledge and belief it contains a true and  
exact record of the voters who voted at the said polling place.

Sworn (or affirmed)  
before me at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

I. J.,  
Poll Clerk.

A Commissioner, etc.  
(or as the case may be).  
See Section 9.

R.S.O. 1927, c. 8, Form 29.



## FORM 38.

(Section 120 (1).)

## OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING OFFICER IS UNABLE TO DELIVER THE BALLOT BOX TO THE RETURNING OFFICER.

I, \_\_\_\_\_ swear (or solemnly affirm) that I am the  
 person to whom \_\_\_\_\_ Deputy Returning Officer for  
 Polling Place No. \_\_\_\_\_ of the \_\_\_\_\_ of  
 in the Electoral District of \_\_\_\_\_ entrusted  
 the ballot box for the said polling place to be delivered to  
 the Returning Officer; that the ballot box which I delivered  
 to the Returning Officer this day, is the ballot box I so received; that  
 I have not opened it and that it has not been opened by any other person  
 since I received it from the Deputy Returning Officer.  
 So help me God.

Sworn (or affirmed) before }  
 me at this }  
 day of , 19 . }  
 A Commissioner, etc. }  
 (or as the case may be). }  
 See Section 9. }

R.S.O. 1927, c. 8, Form 30.

## FORM 39.

(Section 120 (3).)

## OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL.

I, \_\_\_\_\_ Deputy Returning Officer for Polling Place  
 No. \_\_\_\_\_, of the Electoral District of \_\_\_\_\_, swear  
 (or solemnly affirm) that, to the best of my knowledge and belief, the  
 poll book kept for the said polling place under my direction has been  
 kept correctly, that the total number of votes polled according to the said  
 poll book is \_\_\_\_\_, and that it contains a true and exact  
 record of the votes given at the said polling place, as the said votes were  
 taken thereat; that I have correctly counted the votes given for each  
 candidate, in the manner by law provided, and performed all duties  
 required of me by law, and that the statement, polling list, poll book,  
 envelopes containing ballot papers, and other documents required by  
 law to be returned by me to the Returning Officer, have been faithfully  
 and truly prepared and placed in the ballot box and are contained in the  
 ballot box returned by me to the Returning Officer, which was locked  
 and sealed by me, in accordance with the provisions of *The Election Act*  
 and remained so locked and sealed while in my possession.

Sworn (or affirmed) before me at }  
 in the County of }  
 this day of , 19 . }  
 A Commissioner, etc. }  
 (or as the case may be) }  
 See Section 9. }

G. H.,  
 Deputy Returning Officer.

R.S.O. 1927, c. 8, Form 31.

FORM 40.  
(Section 145 (1).)  
Statement by Returning Officer respecting Votes Polled and Ballot Papers Used at the Polling Places of the Electoral District of \_\_\_\_\_, 19\_\_\_\_ day of \_\_\_\_\_

Electoral District.	Names of candidates and number of votes polled for each.			Voters at each Polling Place.			Ballot papers sent out, and how disposed of in each Polling Place.							Total number of printed ballots not distributed to D.R.O's.	Total number of ballot papers printed.	REMARKS
	Numbers of Polling Places.			Total number of votes polled.	Number of votes remaining un-pollled.	Number of names on the Polling Lists.	Number of ballot papers sent out to each polling place.	Used ballot papers.	Unused ballot papers.	Rejected ballot papers.	Cancelled ballot papers.	Declined ballot papers.	Ballot papers taken from polling places.			

.....Returning Officer for the Electoral District of .....  
.....1929, c. 5, s. 15 and Sched.

## FORM 41.

(Section 146 (4).)

AFFIDAVIT TO BE TAKEN BY RETURNING OFFICER AFTER TRANSMITTING  
HIS RETURN TO THE CLERK OF THE CROWN IN CHANCERY.

I, \_\_\_\_\_ Returning Officer for the Electoral District  
of \_\_\_\_\_ swear (or affirm)—

1. That, of the packets received by me as such Returning Officer from the deputy returning officers in respect of the recent election for the said Electoral District, I have not opened or permitted to be opened, any of the envelopes containing the ballot papers.

2. That I have not opened, or permitted to be opened, any of the packets so received except those authorized and directed to be opened by a returning officer under *The Election Act*.

3. That none of the other packets were opened by any person since they were returned to me by the deputy returning officers, (or in the case of a recount add, except by the Judge of the County Court, on a recount).

4. That I have not ascertained and have not attempted to ascertain from the ballot papers or other contents of any of the said packets how any person voted.

5. That I have this day transmitted to the Clerk of the Crown in Chancery my return in respect of the said election.

So help me God.

Sworn (or affirmed) before	}
me at _____ this	
day of _____, 19 ____.	
A Commissioner, etc.	
(or as the case may be).	
See Section 9.	

R.S.O. 1927, c. 8, Form 33.

## FORM 42.

(Section 162.)

## OATH OF SECRECY.

Electoral District of

Polling Place No.

I,

swear (*or solemnly affirm*)—

1. That I will not attempt to ascertain, and will by every means in my power prevent any other person from ascertaining how any person is about to vote or shall have voted at this election save and except as may be necessary and proper in the case of persons blind or unable to read, or incapable of marking their ballot papers as provided in *The Election Act*.

2. That I will not communicate to any person any information of any kind which may enable or assist any person to ascertain the candidate for whom any person has voted.

3. That I will in all respects maintain and aid in maintaining the absolute secrecy of the voting at this polling place.

So help me God.

Sworn ( <i>or affirmed</i> ) before me	}
at this	
day of , 19 .	
A Commissioner, etc. ( <i>or as the case may be</i> ). <i>See Section 9.</i>	

R.S.O. 1927, c. 8, Form 34.

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## CHAPTER 9.

## The Personation Act.

Information  
before officer  
at registry  
or polling  
place.  
Rev. Stat.,  
c. 8.

**1.** Where a person is charged at a polling place with having committed the offence of personation as defined by *The Election Act*, the deputy returning officer at such place may take the information on oath of the person making the charge, and it shall be the duty of the deputy returning officer to take the information when requested so to do by a candidate or his agent. R.S.O. 1927, c. 9, s. 1.

Mode of  
recovering  
penalty.

Rev. Stat.,  
c. 8.

Rev. Stat.,  
c. 136.

**2.** Where the information is laid before a deputy returning officer, and a warrant for the arrest of the offender is issued by him under this Act, the punishment or penalty imposed by law, notwithstanding the provisions of *The Election Act*, may be imposed by or recovered before two justices of the peace under *The Summary Convictions Act*. R.S.O. 1927, c. 9, s. 2.

When  
offender  
may be  
detained.

**3.** Where the person against whom it is proposed to lay the information has not left the polling place the deputy returning officer may, either of his own motion or at the request of any one proposing forthwith to lay any information against such person, detain him or direct his detention until an information can be laid and a warrant for his arrest issued. R.S.O. 1927, c. 9, s. 3.

When  
warrant  
may be  
issued.

**4.** Where the information is laid, the deputy returning officer may on the polling day, but not afterwards, issue his warrant for the arrest of the person charged, in order that he may be brought before the magistrate or justices of the peace to answer the information and to be further dealt with according to law. R.S.O. 1927, c. 9, s. 4.

Authority of  
constable,  
etc., under  
warrant.

**5.** The warrant shall be sufficient authority for any constable, peace officer or gaoler to detain such person until he is brought before the magistrate or justices of the peace. R.S.O. 1927, c. 9, s. 5.

Where name  
of person  
charged is  
unknown.

**6.** Where the correct name of the person charged is unknown to the informant, it shall be sufficient in the information and other proceedings to describe the person charged as a person whose name is unknown, but who is detained by the authority of the deputy returning officer under the provisions of this Act; or the person charged may be described in such



other manner as may sufficiently identify him; but when the name of the person so charged has been ascertained, it shall be stated in any subsequent warrant or proceeding. R.S.O. 1927, c. 9, s. 6.

7. Every poll clerk shall have the authority of a constable <sup>Authority of certain officers.</sup> for the purpose of carrying out the provisions of this Act; and every deputy returning officer may appoint such special constables <sup>Special constables.</sup> as he deems necessary for the like purpose, and such persons shall have full power to act without taking any oath. R.S.O. 1927, c. 9, s. 7.

8. Informations or warrants may be in accordance with <sup>Form of information and warrant.</sup> the forms in the schedule hereto, but it shall not be necessary that a warrant shall have a seal affixed thereto, and the omission of a seal, where a warrant purports to be sealed, shall not invalidate it. R.S.O. 1927, c. 9, s. 8.

9. Every Crown attorney shall keep in his office a sufficient <sup>Supply of forms.</sup> supply of printed forms of such informations and warrants, and shall upon the request of the returning officer furnish him with as many of such forms as are necessary for the use of the deputy returning officers; and every returning officer shall, before the polling day, furnish each deputy returning officer with at least ten of each of such forms. R.S.O. 1927, c. 9, s. 9.

10.—(1) For providing and furnishing the forms, the <sup>Allowance to Crown attorney for supplying forms.</sup> Crown attorney shall be allowed \$4 for each election for which such forms are supplied, to be paid on the production of the receipts of the officer or officers to whom they were furnished.

(2) The fees and the disbursements of the Crown attorney <sup>How chargeable.</sup> in obtaining the forms shall form part of the expenses of criminal justice. R.S.O. 1927, c. 9, s. 10.

11. Every person guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, \$400. R.S.O. 1927, c. 9, s. 11.

## SCHEDULE OF FORMS.

### FORM 1.

(See Section 172 of The Election Act.)

*Information for Personation at a Polling Place.*

County of	,	} The information of	of	
of	,		the	of
			day of	19
To Wit:		undersigned, a Deputy	Returning Officer at a	
polling place in the		of	for an election then being	

held of a Member of the Legislative Assembly for the Electoral District of

The informant says that he believes that (1)  
on this day at the said polling place did commit the offence of personation  
contrary to *The Election Act*, for that the said

(2) did apply for a ballot paper in the name of another person, that is  
to say, in the name of C. D. (3).

A. B.,  
Informant.

Taken and sworn (4) before me at the said polling place and on the  
day and year above mentioned.

W. J.

NOTE.—(1) *If the name of the person charged is unknown to the informant substitute "a person whose name is unknown to the informant but who is now detained in the said polling place under my order."*

(2) *Or "person whose name is unknown."*

(3) *Or, "having voted at the same election, did apply for a ballot paper in his own name," or "did vote more than once at the same election."*

(4) *Or, if the informant is a person who may by law affirm in civil cases then for "sworn" substitute "solemnly affirmed."*

R.S.O. 1927, c. 9, Form 1.

FORM 2.

*Warrant for Personation at Polling Place.*

County of \_\_\_\_\_, } To all or any of the constables and other  
of \_\_\_\_\_, } peace officers in the \_\_\_\_\_ of \_\_\_\_\_  
and \_\_\_\_\_ of \_\_\_\_\_  
To Wit: } Whereas information on oath has this day  
been taken before the undersigned, a deputy returning officer at a  
polling place in the \_\_\_\_\_ of \_\_\_\_\_ for an  
election then being held of a Member of the Legislative Assembly for  
the electoral district of \_\_\_\_\_ for that  
(1) on this day at the said polling place did  
commit the offence of personation, contrary to *The Election Act*, for  
that the said \_\_\_\_\_ (2) did apply  
for a ballot paper in the name of another person, that is to say, in the  
name of \_\_\_\_\_ (or as the case may be, describing  
the offence as in the information);

These are therefore to command you in His Majesty's name forth-  
with to apprehend the said \_\_\_\_\_ and to bring him  
before the Magistrate of the said \_\_\_\_\_ or before two  
Justices of the Peace for the said county, to answer the said information  
and to be further dealt with according to law.

Given under my hand and seal this \_\_\_\_\_ day of  
19 \_\_\_\_\_.

W. J.

NOTE.—(1) *If the name of the person charged is unknown substitute "a person whose name is unknown to the informant, but who is now detained in the said polling place, and is being delivered into the custody of G. D., a constable of the said \_\_\_\_\_."*

(2) *Or, "person whose name is unknown."*

R.S.O. 1927, c. 9, Form 2.

## CHAPTER 10.

## The Political Contributions Act.

1. No unincorporated company or association and no incorporated company or association other than one incorporated for political purposes alone shall, directly or indirectly, contribute, loan, advance, pay, or promise or offer to pay any money or its equivalent to, or for, or in aid of any candidate at an election, or to, or for, or in aid of any political party, committee or association, or to or for or in aid of any company incorporated for political purposes, or to, or for, or in furtherance of any political purpose whatever, or for the indemnification or reimbursement of any person for moneys so used. 1929, c. 6, s. 2.

2. Every director, shareholder, officer, attorney or agent of any company or association violating the provisions of this section, or who aids, abets, advises or takes part in any such violation, and every person who asks or knowingly receives any money or its equivalent in violation of the provisions of this section shall be guilty of a corrupt practice within the meaning of *The Election Act* and shall incur a penalty of not less than \$100 nor more than \$2,000 and shall be imprisoned for a period of not less than three months nor more than twelve months. 1929, c. 6, s. 3.

Companies  
not to con-  
tribute for  
election  
purposes.

Penalty for  
violation  
of Act.

Rev. Stat.,  
c. 8.

## CHAPTER 11.

## The Controverted Elections Act.

Interpreta-  
tion."Candi-  
date."

## 1. In this Act—

(a) "Candidate at an election" and "candidate" shall mean and include a person elected to serve in the Assembly, and a person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for an election, or after the dissolution or vacancy in consequence of which the writ has been issued;

"Corrupt  
practice."

(b) "Corrupt practice" shall have the meaning assigned to it by *The Election Act*;

"County."

(c) "County" shall include united counties and a district;

"County  
court."

(d) "County court" shall include district court;

"Court."

(e) "Court" shall mean Court of Appeal.

"Election."

(f) "Election" shall mean an election of a member to serve in the Assembly;

"Election  
court."

(g) "Election court" shall mean a court constituted under this Act for the trial of a petition or a summary trial court constituted under this Act for the trial of persons charged with corrupt practices or illegal acts;

"Election  
list."

(h) "Election list" shall mean the list of petitions referred to in section 32;

"Member."

(i) "Member" shall mean member of the Assembly.

"Petition."

(j) "Petition" shall mean a petition presented under this Act;

"Pre-  
scribed."

(k) "Prescribed" shall mean prescribed by this Act or by rules of court;

- (l) "Public moneys" shall include the moneys of Ontario <sup>"Public moneys," meaning of.</sup> or of a municipality;
- (m) "Registrar" shall mean registrar of the Court of <sup>"Registrar."</sup> Appeal.
- (n) "Rules of court" shall mean rules made as here- <sup>"Rules of court."</sup> inafter provided;
- (o) "Speaker" shall mean Speaker of the Assembly, <sup>"Speaker."</sup> or, when the office is vacant, the Clerk of the Assembly, or any other officer for the time being performing the duties of the Clerk. R.S.O. 1927, c. 11, s. 1.

2. The Supreme Court shall, subject to the provisions of <sup>Jurisdiction.</sup> this Act, have the same powers, jurisdiction and authority with reference to a petition and the proceedings thereon as it would have if the petition were an ordinary action within the jurisdiction of that court. R.S.O. 1927, c. 11, s. 2.

3.—(1) Where not otherwise herein provided and sub- <sup>Practice and procedure.</sup> ject to rules of court the practice and procedure of the Supreme Court shall apply to a petition and to the proceedings thereon with respect to—

- (a) service of the petition and of all other documents;
- (b) payment into and out of court;
- (c) examination for discovery;
- (d) production and inspection of documents;
- (e) costs and the taxation and recovery thereof;
- (f) all other matters of practice or procedure.

(2) Nothing in this section shall extend or shall confer <sup>Saving.</sup> the right to extend the time for the presentation of a petition. R.S.O. 1927, c. 11, s. 3.

#### RULES OF COURT

4.—(1) The Supreme Court, or a majority of the judges <sup>Power to make rules of court.</sup> thereof, may make general rules not inconsistent with this Act for the effectual execution thereof, and the regulation of the practice and procedure and as to costs.



Rules to be  
laid before  
the  
Assembly.

(2) The rules of court shall be laid before the Assembly within three weeks after they are made, if the Assembly is then sitting, and if the Assembly is not then sitting, within three weeks after the beginning of the next session. R.S.O. 1927, c. 11, s. 4.

Present  
rules and  
practice in  
cases not  
provided for.

5. The rules of court now in force shall remain in force until revoked or altered by rules of court made in pursuance of this Act; and, so far as the rules of court from time to time in force do not extend, the principles, practice and rules on which election petitions touching the election of members to the House of Commons of Great Britain and Ireland were on the 15th day of February, 1871, dealt with, where not inconsistent with this Act, shall be observed. R.S.O. 1927, c. 11, s. 5.

#### PRESENTATION OF PETITION.

Subject  
matter of  
petition.

6. A petition may be presented to the court complaining of an undue return or undue election of a member, or of no return, or of matters contained in a special return, or of a corrupt practice by a candidate not returned by which he is alleged to have become disqualified to sit in the Assembly. R.S.O. 1927, c. 11, s. 6.

By whom  
petition may  
be presented.

7. A petition may be presented by:—

- (a) a person who was a candidate at the election; or
- (b) three persons who voted or who had a right to vote at the election and who are severally rated on the last revised assessment roll in respect of real property in the electoral district for at least \$1,000. R.S.O. 1927, c. 11, s. 7.

Who may  
be made  
respondents.

8. Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time; but the petition shall be deemed to be a separate petition against each respondent. R.S.O. 1927, c. 11, s. 8.

Petition  
complaining  
of a  
returning  
officer.

9. Where a petition complains of the conduct of a returning officer, he shall, for all the purposes of this Act, except the admission of a respondent in his place, be deemed to be a respondent. R.S.O. 1927, c. 11, s. 9.

Petition  
complaining  
of no return.

10. Where a petition complains of no return the court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow the petition to be

tried by an election court in the manner herein provided with respect to other petitions. R.S.O. 1927, c. 11, s. 10.

**11.** The petition shall be presented within forty-five days after the day on which the polling was held for the election named in the petition, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within the said period of forty-five days or within twenty-eight days after the date of such payment or act. R.S.O. 1927, c. 11, s. 11.

Petition,  
when to be  
presented.

**12.** A petition shall be in such form, and state such matters as may be prescribed, and shall be signed by the petitioner, or all the petitioners, if there are more than one. R.S.O. 1927, c. 11, s. 12.

Form of  
petition,  
and by  
whom to be  
signed.

**13.** If a petition is presented against the return of a member, the respondent or any other persons authorized by law to present a petition, may, within fifteen days after the service of the petition against the return, present a petition complaining of any corrupt practice by any candidate at the same election who was not returned, whether the seat is or is not claimed by him, or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as may be appointed. R.S.O. 1927, c. 11, s. 13.

Cross  
petition on  
account of  
corrupt  
acts.

**14.—(1)** Presentation of a petition in a case arising in the County of York or the City of Toronto shall be made by delivering it to the registrar, and in other cases by delivering it to the local registrar of the Supreme Court for the county or district in which the electoral district or any part thereof is situate, or otherwise dealing with the same in the manner prescribed.

Presentation  
of petition.

(2) On receipt of a petition by a local registrar he shall send notice thereof by registered post to the registrar.

Notice to  
registrar.

(3) The registrar shall send a notice by registered post to the Clerk of the Crown in Chancery of the presentation of every petition. R.S.O. 1927, c. 11, s. 14.

Notice to  
Clerk of the  
Crown in  
Chancery.

**15.—(1)** With every petition shall be filed an affidavit by each of the petitioners, referring or annexed to the petition, stating that the deponent presents the petition in good

Verification.

faith, and with actual knowledge of the allegations therein contained, and has reason to believe and does believe the statements contained therein to be true in substance and in fact and all particulars afterwards furnished by either party shall be verified by the affidavit of the person furnishing such particulars.

Cross-examination.

(2) The respondent may cross-examine any petitioner upon any such affidavit made by such petitioner and may move for the dismissal of the petition, and if the court or a judge is satisfied that the petitioner is not acting in good faith or has not reason to believe or does not believe any statements contained in such affidavit, or the petition or particulars verified by such affidavit, the petition shall be dismissed and all proceedings thereunder terminated on such terms as the court or a judge may direct. 1935, c. 10, s. 2.

Publication of notice of petition.

**16.—**(1) On the presentation of a petition against the return of a member, the officer with whom the same is filed shall send a copy thereof by mail to the returning officer of the electoral district to which the petition relates, who shall forthwith publish a notice thereof once in a newspaper published in the district, or, if there be no newspaper published in the district, then in a newspaper published in an adjoining district.

Form of notice.

(2) The notice may be in the form following:—

Notice is hereby given that \_\_\_\_\_ has presented a petition to the Supreme Court of Ontario, under *The Controverted Elections Act*, against the return of \_\_\_\_\_ Esquire, as a member of the Legislative Assembly for the Electoral District of \_\_\_\_\_ [and (where the seat is claimed) claiming the seat for \_\_\_\_\_ or as the case may be.]  
Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Returning Officer.

R.S.O. 1927, c. 11, s. 16.

Disclaimer not to affect right to petition claiming seat.  
Rev. Stat., c. 12.

**17.—**(1) A disclaimer by the member elect under the provisions of *The Legislative Assembly Act* shall not affect the right of any person entitled to contest the election to present a petition claiming the seat for himself or for some other person, nor the liability of the person disclaiming in respect of corrupt practices against whom a petition may be presented in the same manner as if he had not disclaimed.

When seat claimed.

(2) In case of a petition claiming the seat for the petitioner or some other person the election court shall determine whether any candidate other than the member who has disclaimed was duly elected and the candidate declared by

the election court duly elected shall be entitled to the seat.  
R.S.O. 1927, c. 11, s. 17.

**18.** The officer receiving a copy of the disclaimer under section 19 of *The Legislative Assembly Act* shall give notice of such disclaimer to any person who has filed, or who may thereafter present to be filed a petition against the member disclaiming. R.S.O. 1927, c. 11, s. 18.

Notice of disclaimer.  
Rev. Stat.,  
c. 12.

**19.** Notwithstanding such disclaimer a judge of the court, upon the application of any voter in the electoral district within ten days after the registrar shall have received notice of the disclaimer, upon its being made to appear that corruption has extensively prevailed at the election, may permit a petition to be filed in the same manner as though no such disclaimer had been made, or may, upon the grounds aforesaid, permit proceedings upon any petition which has been filed to proceed upon such terms as he may think fit. R.S.O. 1927, c. 11, s. 19.

Permitting  
petition to be  
filed where  
corruption  
charged.

#### SECURITY FOR COSTS.

**20.** At the time of the presentation of every petition, or within four days afterwards, security shall be given on behalf of the petitioner for the payment,—

Security for  
costs.

(a) to the returning officer and the sheriff of the costs and charges incurred in the publication of notices in the electoral district, in respect of the petition or proceedings thereon, which shall form a first charge upon the security; and

(b) of all costs, charges and expenses that may become payable by the petitioner to

(i) every person summoned as a witness on his behalf;

(ii) the member or candidate against whom the petition is presented; and

(iii) the returning officer if his conduct is complained of. R.S.O. 1927, c. 11, s. 20.

**21.** The security shall be a deposit of \$1,000, in one of the banks in which public money of Ontario is then being deposited, and the deposit shall be made to the credit of the petition, with the privity of the accountant of the Supreme Court. R.S.O. 1927, c. 11, s. 21.

How made.



## SERVICE OF PETITION.

Service of  
petition.

**22.**—(1) A copy of the petition, together with notice of the presentation thereof, shall be served upon the respondent within ten days after the day on which security is given or within such further period as the court or a judge thereof under special circumstances of difficulty in effecting service and on application made not later than three days after the expiration of such ten days, may allow.

Manner.

(2) The service shall be made as nearly as may be in the manner in which a writ of summons is served or in such other manner as may be prescribed.

Out of  
Ontario.

(3) By leave of the court or a judge the service may be made out of Ontario. R.S.O. 1927, c. 11, s. 22.

## PRELIMINARY EXAMINATION OF PARTIES, AND PRODUCTION OF DOCUMENTS.

When and  
how parties  
to petition  
may be  
examined.

**23.** Every party to a petition may, at any time after the petition is at issue, be examined, in the manner hereinafter directed, by a party adverse in interest, touching any matter raised by the petition; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party examined; but the explanatory examination shall be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the court or a judge. R.S.O. 1927, c. 11, s. 23.

Member not  
required to  
attend on  
preliminary  
examination  
during  
session.

**24.** Where a petition has been filed against a member elect who is entitled to take his seat he shall not without his consent be required to attend on any preliminary examination during a session of the Assembly. R.S.O. 1927, c. 11, s. 24.

Stay of  
examination  
ordered.

**25.** Where a party to a petition deems that a preliminary examination is being carried on for an unreasonable length of time he may apply to a judge of the court on giving two clear days' notice to the opposite party, for an order that no further examination shall be had or that the examination shall be closed by a day to be named, and the judge may make an order accordingly or may make such other order as appears just and reasonable. R.S.O. 1927, c. 11, s. 25.



**26.** A candidate for whom the seat is claimed although not a party to the petition may be orally examined as if he were a petitioner, and for the purpose of production of documents shall be deemed to be a petitioner. R.S.O. 1927, c. 11, s. 26. Examination of candidate claiming seat.

**27.**—(1) A party to be examined orally, shall be examined before a judge of the county court, the registrar or a local master or special examiner of the Supreme Court, or by consent of the parties before a barrister-at-law specially named in the order for examination. How examination of parties shall be had.

(2) The costs of and incidental to every preliminary examination shall be borne by the party procuring the examination, and shall not in any event be chargeable against the other party, or against the deposit in court. R.S.O. 1927, c. 11, s. 27. Costs of preliminary examinations.

**28.** When the examination is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the office where the petition is filed; and any party to the petition shall be entitled to a copy of the depositions, or any part thereof, upon payment for the same at such rate as may be prescribed. R.S.O. 1927, c. 11, s. 28. Depositions to be filed.

**29.**—(1) If a preliminary examination is had the returning officer to whom the bills and vouchers relating to the election have been delivered as provided by *The Election Act* may be subpoenaed to produce such bills and vouchers for the purposes of the examination. Production of bills and vouchers for purpose of preliminary examination. Rev. Stat., c. 8.

(2) Immediately upon the close of the examination the bills and vouchers shall be returned to the returning officer and verified copies thereof may be made and filed as exhibits in lieu of the originals. R.S.O. 1927, c. 11, s. 29. Custody.

**30.** Where the party to be examined is a prisoner the sheriff, gaoler or other officer having him in custody, shall take him before the examiner if so ordered by the court or a judge. R.S.O. 1927, c. 11, s. 30. Attendance of prisoners as witnesses.

**31.** Every party to the petition shall be entitled to use, upon the trial, depositions of the opposite party; but where such party uses any portion of a deposition the election court may look at the whole deposition and allow such other part of it as is explanatory of the part used to be read in connection therewith. R.S.O. 1927, c. 11, s. 31. Depositions may be used on trial.

## TRIAL OF PETITIONS.

List of  
petitions at  
issue.

**32.**—(1) The registrar shall, as soon as possible, make out a list of all petitions which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list, open to the inspection of any person making application, and the petitions, as far as conveniently may be, shall be tried in the order in which they stand on the list.

Order in  
which peti-  
tions shall  
be tried.

Several peti-  
tions relating  
to same elec-  
tion, how  
placed on  
election list.

(2) Where more petitions than one relating to the same election or return are presented, they shall in the election list be bracketed together and shall be dealt with as far as practicable as one petition; but the petitions shall stand on the election list in the place where the last of them would have stood if it had been the only petition presented, unless the court otherwise directs. R.S.O. 1927, c. 11, s. 32.

Trial to be  
by two  
judges.

**33.** Every petition shall be tried by two judges of the Supreme Court without a jury. R.S.O. 1927, c. 11, s. 33.

Assignment  
of judges for  
trial of  
petitions.

**34.**—(1) All such arrangements as may be necessary for the holding of the election courts and the assignment from time to time of the judges before whom the election trials and trials of persons charged with corrupt practices are to take place shall be made by the judges of the Supreme Court or a majority of them.

Substitution.

(2) Where occasion for so doing arises the judges of the Supreme Court, or a majority of them, may at any time substitute for any judge assigned to hold an election court any other judge of the Supreme Court.

Delegation  
of duties.

(3) The judges of the Supreme Court, or a majority of them, may from time to time delegate to such of their number, not being less than four as they may see fit, the duties mentioned in subsection 1 or any of them. R.S.O. 1927, c. 11, s. 34.

Registrar of  
election  
court,—  
appoint-  
ment of.

**35.**—(1) The Lieutenant-Governor in Council may appoint a registrar to be called the registrar of the election court, who shall attend the trials of petitions and perform such duties as may be prescribed by Order-in-Council or rule of court.

Absence of  
registrar.

(2) Where the registrar is unable to attend the judges assigned to hold the court may appoint a registrar thereof, and he shall be entitled to such fees as may be determined by the Lieutenant-Governor in Council.

(3) The salary of the registrar shall be determined by <sup>Salary.</sup> Order-in-Council and shall be in lieu of all fees. R.S.O. 1927, c. 11, s. 35.

**36.**—(1) The trial of a petition shall take place in the <sup>Place of</sup> electoral district, the election or return for which is in ques- <sup>trial.</sup> tion, unless it appears to the election court that it is desirable that the petition should be tried elsewhere, in which case the court may, with the consent of the parties, appoint such other place as appears most convenient.

(2) The election court may adjourn the trial from time <sup>Adjourn-</sup> to time, and from any one place to any other place within <sup>ment.</sup> the electoral district, as may seem expedient.

(3) Nothing in this section contained shall prevent the <sup>Adjourn-</sup> election court from directing that the trial be adjourned to <sup>ment to</sup> be continued or closed in Toronto. R.S.O. 1927, c. 11, s. 36. <sup>Toronto.</sup>

**37.** Notice of the time and place at which the petition <sup>Notice of</sup> will be tried shall be given in the prescribed manner, not less <sup>trial.</sup> than fourteen days before the day on which the trial is to take place. R.S.O. 1927, c. 11, s. 37.

**38.** The judges shall be received and attended at the <sup>Reception</sup> place where they are to try a petition, in the same manner, <sup>and</sup> so far as circumstances will admit, as a judge is received <sup>attendance</sup> and attended at a sittings of the High Court in a county <sup>on the</sup> town for the trial of actions. R.S.O. 1927, c. 11, s. 38. <sup>judge.</sup>

**39.** Subject to the provisions of this Act, the judges <sup>Powers of the</sup> constituting an election court shall have the same powers, <sup>election</sup> jurisdiction and authority as judges of the Supreme Court, <sup>court.</sup> and the election court shall be a court of record. R.S.O. 1927, c. 11, s. 39.

**40.** The trial or an appeal from a judgment of the elec- <sup>Certain cir-</sup> tion court may be proceeded with, notwithstanding the <sup>cumstances</sup> acceptance by the respondent of an office of profit under the <sup>not to stop</sup> Crown, or his resignation of the seat, or the prorogation or <sup>trial.</sup> dissolution of the Assembly. R.S.O. 1927, c. 11, s. 40.

**41.**—(1) Where forty-five days have elapsed after the <sup>Application</sup> presentation of the petition without the day for trial having <sup>to change</sup> been fixed, any voter may, within fifty-five days after the <sup>petitioner</sup> presentation of such petition, apply to the court or a judge <sup>when delay</sup> to be substituted for the petitioner or petitioners on such <sup>in fixing</sup> terms as may be just, and to have the date of trial fixed. <sup>day of trial.</sup>

Dismissal  
of petition.

(2) Unless such application is made within such time such petition shall be dismissed, and all further proceedings thereunder shall be terminated upon such terms as the court or judge may direct. R.S.O. 1927, c. 10, s. 3.

Time for  
commence-  
ment of trial.

**42.**—(1) Subject to the provisions of section 43 the trial shall be commenced within six months from the time when the petition was presented, and shall be continued *de die in diem* until its conclusion, unless it appears to the election court that the requirements of justice render it necessary that the trial should be adjourned.

Postpone-  
ment.

(2) The election court may upon application of either party, after the day of trial has been fixed, and before it has been commenced, postpone the trial on such terms as may be just. R.S.O. 1927, c. 11, s. 42 (1, 2).

When trial  
shall not be  
held, during  
a session or  
fifteen days  
thereafter.

**43.** If the member-elect is entitled to take his seat, the trial shall not, without his consent, be held during, or within, fifteen days after the close of a session of the Assembly; and in the computation of any time or delay allowed for any step or proceeding in respect of the trial, or for the commencement of the trial the time occupied by the session shall not be reckoned. R.S.O. 1927, c. 11, s. 43.

### *Evidence.*

When evi-  
dence of  
corrupt  
practice may  
be received.

**44.** Unless the election court otherwise directs evidence in support of a charge of a corrupt practice may be received before proof has been given of the agency of the person alleged to have committed the corrupt practice. R.S.O. 1927, c. 11, s. 44.

Cross  
evidence of  
undue  
return.

**45.** On the trial of a petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if the respondent had presented a petition under the provisions of section 13. R.S.O. 1927, c. 11, s. 45.

### *Witnesses.*

Witness, how  
subpoenaed  
and sworn.

**46.** Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as on the trial of an action. R.S.O. 1927, c. 11, s. 46.

Power of  
election  
court to  
order  
attendance.

**47.**—(1) The election court may, by order, compel the attendance as a witness at the trial of any person who appears to have been concerned in the election to which the



petition relates, and any person refusing to obey such order shall be guilty of contempt of court.

(2) The election court may examine any witness so compelled to attend or any person in court, although he is not called and examined by a party to the petition. Examination by court.

(3) After the examination of the witness he may be cross-examined by or on behalf of the petitioner and respondent, or either of them. Cross-examination.

(4) When a witness is a prisoner the gaoler or other officer having him in custody shall take him before the election court if so ordered by that court or by a judge of the Court of Appeal. R.S.O. 1927, c. 11, s. 47. Prisoners as witnesses.

**48.**—(1) A person who is called before an election court shall not be excused from answering any question relating to an offence at or connected with the election, on the ground that the answer may criminate or tend to criminate him, or to establish his liability to a civil proceeding at the instance of the Crown or of any person, or on the ground of privilege, but Persons not excused from answering on ground of privilege.

(a) a witness who answers truly all questions which he is required by the election court to answer shall be entitled to receive a certificate of indemnity under the hands of the members of such court, stating that the witness has so answered, and Certificate of indemnity.

(b) any such answer to a question put by or before an election court shall not be admissible in evidence against him in any proceeding under any Act of this Legislature. Imp. Act, 46 & 47, V. c. 51, s. 59.

(2) Where a witness has received a certificate, and a legal proceeding is at any time instituted against him for an offence under or a contravention of *The Election Act*, committed by him before the date of the certificate at or in relation to the election, the court having cognizance of the proceeding shall on the production of the certificate stay the proceeding, and may award to such person such costs as he may have been put to in the proceeding, but a witness who upon his own evidence is found by the election court to have been guilty of a corrupt practice, and who is reported therefor, shall be thereby subject to the penalties and disabilities mentioned in section 180 of *The Election Act*, unless such finding and report are reversed or set aside by the court. R.S.O. 1927, c. 11, s. 48. Stay of proceeding against witness who has received certificate. Proviso. Rev. Stat., c. 8.



Expenses of witnesses.

**49.** A person appearing to give evidence before an election court shall be entitled to the like fees and expenses as are allowed to witnesses on the trial of civil actions, and such fees and expenses, if the witness was called and examined by the election court shall be deemed to be part of the expenses of providing a court, and in other cases shall be costs of the party calling the witness. R.S.O. 1927, c. 11, s. 49.

#### REPORTS AND CERTIFICATES.

Decision of election court.

**50.** The election court shall determine whether the member whose return or election is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall also determine the matters in question on a petition, if any, presented under the provisions of section 13, and, except in the case of an appeal as hereinafter provided, shall certify their determination to the Speaker and, upon the certificate being given, such determination shall be final. R.S.O. 1927, c. 11, s. 50.

Finality.

Report of judges where charge is made of corrupt practices.

**51.** Where a charge is made in a petition of a corrupt practice having been committed, the election court shall, with the certificate, and at the same time, report as follows:—

- (a) whether any corrupt practice has been proved to have been committed by or with the actual knowledge and consent of any and of which candidate and the nature of such corrupt practice;
- (b) the name of any person who has been proved to have been guilty of a corrupt practice;
- (c) the name of any person who upon his own evidence has been found guilty of a corrupt practice;
- (d) whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election;
- (e) whether they are of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable. R.S.O. 1927, c. 11, s. 51.

Special report.

**52.** The election court may also report specially as to any matter arising in the course of the trial, an account of which ought to be submitted to the Assembly. R.S.O. 1927, c. 11, s. 52.

**53.**—(1) Where an appeal is had from their judgment on the trial of a petition the election court shall make the certificates and report to the Court of Appeal, and the same shall form part of the record upon the appeal. Certificate for Court of Appeal.

(2) The election court shall not certify their determination until after the security for costs of appeal has been deposited, or until the time limited for depositing the security has expired. Certificate not to be issued during time for appealing. R.S.O. 1927, c. 11, s. 53.

**54.**—(1) Every certificate and every report shall be under the hands of both of the judges constituting the election court. Concurrence of judges.

(2) If the judges differ as to whether a member whose return or election is complained of was duly returned or elected, they shall certify that difference, and subject to appeal he shall be deemed to be duly returned or elected. Where difference of opinion.

(3) If the judges determine that a member was not duly returned or elected, but differ as to other matters arising upon the trial, they shall certify that difference, and, subject to appeal, the election shall be void. Agreement as to undue return or election.

(4) If the judges differ as to any matter which might be the subject of a report, they shall certify that difference, and make no report on that matter. Other matters. R.S.O. 1927, c. 11, s. 54.

**55.** The Speaker shall as soon as practicable after he receives a certificate or a certificate and report, communicate the same to the Assembly, and the same shall forthwith thereafter be entered on the Journals, and the Assembly may give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require. Speaker to communicate report to the Assembly. R.S.O. 1927, c. 11, s. 55.

**56.**—(1) If the election court determines that a member was not duly returned or elected notwithstanding that an appeal from the decision is pending, he shall not be entitled to sit or vote in the Assembly until the appeal is disposed of, and the certificate of the court received by the Speaker, but where the election court determines that some other person was elected or is entitled to the seat, such person shall, notwithstanding that an appeal is pending, be entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the certificate of the court received by the Speaker. If election set aside and appeal entered.

Notice to  
Speaker.

(2) In the cases to which subsection 1 applies where an appeal is entered the registrar shall forthwith notify the Speaker of the determination of the election court, and that an appeal therefrom is pending. R.S.O. 1927, c. 11, s. 56.

Time for  
issue of writ  
for new  
election.

**57.** A writ for a new election shall not be issued until after the expiration of eight days from the determination of the election court, that the return or election is void and, if an appeal is in the meantime brought, the writ shall not issue, pending the appeal. R.S.O. 1927, c. 11, s. 57.

#### SPECIAL CASE.

Special  
case—  
hearing of.

**58.**—(1) Where it appears to the court or to the election court that the case raised by the petition can be conveniently stated as a special case either court, upon the application of a party or upon the consent of all parties, may direct the same to be stated accordingly; and such special case shall be heard before the Court of Appeal whose decision shall be final, and the registrar shall certify to the Speaker the judgment upon such special case and the petition.

Decision  
as to  
question  
of law.

(2) If it appears to the election court before or during the trial of a petition that there is a question of law which it would be convenient to have decided by the court before the trial of the petition is concluded the election court may make an order accordingly, and may direct the mode in which the question shall be raised, and may in the meantime, if it appears necessary, adjourn the trial of the petition until the question has been decided, and shall thereafter deal with the petition upon the trial in accordance with the decision. R.S.O. 1927, c. 11, s. 58.

#### APPEALS.

Disagree-  
ment be-  
tween the  
trial judges.  
Rev. Stat.,  
c. 8.

**59.**—(1) Subject to the provisions of section 182 of *The Election Act* where the judges constituting the election court disagree, they shall certify the disagreement as provided by section 54, and either party may thereupon bring the matter before the court, and the court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of the election court and may determine all questions of law and fact which the election court might or should have determined, and the registrar shall certify the judgment of the court to the Speaker.

Application  
to court.

Reference  
back.

(2) Instead of determining all such questions the court may refer the case back to the election court, with such

declarations and directions as the court may think fit, and the election court shall thereupon dispose of the case in accordance with such declarations and directions, and shall certify as the case may require. R.S.O. 1927, c. 11, s. 59.

**60.**—(1) Subject to the provisions of section 69 a party <sup>Appeal.</sup> to a petition who is dissatisfied with the judgment of the election court may appeal therefrom to the Court of Appeal.

(2) The party appealing shall within eight days from the <sup>Security for costs.</sup> day on which the judgment was given deposit with the registrar \$100 as security for costs.

(3) The registrar shall thereupon set the appeal down <sup>Setting down for hearing.</sup> to be heard on a day to be appointed by the court, or a judge thereof.

(4) The appeal shall be given precedence over all ordin- <sup>Precedence.</sup> ary business, but the court may for sufficient cause postpone the hearing.

(5) The party appealing shall within three days after the <sup>Notice of setting down.</sup> security for costs has been given, or within such further time as the court or a judge may allow, give to the other parties affected by the appeal, notice in writing that the appeal has been set down to be heard and by the same notice the party appealing may limit the appeal to any specific question. R.S.O. 1927, c. 11, s. 60.

**61.** The appeal shall thereupon be heard and determined <sup>Hearing.</sup> by the court, and such judgment shall be pronounced, as in <sup>Judgment.</sup> the opinion of the court should have been given by the election court. R.S.O. 1927, c. 11, s. 61.

**62.** The court shall review the judgment upon questions <sup>Court to re-view decision upon facts as well as law.</sup> of fact as well as of law, and shall draw such inference from the facts or evidence as the election court should have drawn. R.S.O. 1927, c. 11, s. 62.

**63.** The court shall have all the powers and duties as <sup>Powers of court as to amendments and evidence.</sup> to amendment and otherwise of the election court, and may require any witness to be re-examined, and may receive further evidence, either by oral examination in court, or by affidavit or by deposition taken before any judge or other person whom the court may name. R.S.O. 1927, c. 11, s. 63.

**64.** Where the judgment of the election court depends <sup>Judges may report upon demeanour of witnesses.</sup> in whole or in part upon the credit given to particular witnesses, and the judgment is appealed against, the election



court may make a written report as to the demeanour of the witnesses and their mode of giving their evidence, and of the reasons for giving credit to the particular witnesses. R.S.O. 1927, c. 11, s. 64.

Return of deposit.

**65.** The court may make such order as to the disposition of the deposit as may seem just. R.S.O. 1927, c. 11, s. 65.

Registrar to certify judgment to the Speaker.

**66.** The registrar shall certify to the Speaker the judgment of the court in the same manner as the election court but for the appeal should have done; and shall certify as to the matters and things as to which the election court would but for such appeal have been required to report. R.S.O. 1927, c. 11, s. 66.

New trial.

**67.** Instead of so certifying, the court, upon such terms as to costs and otherwise as may seem just, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case to the election court, or to some other election court; and, subject to any directions of the court, the case shall be thereafter proceeded with as if there had been no appeal. R.S.O. 1927, c. 11, s. 67.

Decisions of Courts of Appeal to be final.

**68.** The judgment of the court on any matter or question under this Act or *The Election Act* shall be final, and shall not be subject to appeal. R.S.O. 1927, c. 11, s. 68.

No appeal in certain cases.

**69.** There shall be no appeal from a decision of the election court that a candidate or other person has not been guilty of corrupt practices, or from a finding in favour of a candidate of any of the matters of defence mentioned in section 178 or 180 of *The Election Act*. R.S.O. 1927, c. 11, s. 69.

Rev. Stat., c. 8.

#### WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Withdrawal of petitions.

**70.**—(1) A petition shall not be withdrawn without the leave of the court or a judge upon special application, to be made in and at the prescribed manner, time and place.

Notice of withdrawal.

(2) The application shall not be made until the prescribed notice thereof has been given in the electoral district.

All petitioners must join in withdrawal.

(3) Where there are more petitioners than one, the application to withdraw a petition shall not be made, except with the consent of all the petitioners. R.S.O. 1927, c. 11, s. 70 (1-3).

Substitution of new petitioner.

(4) Subject to the provisions of section 41, on the hearing of the application, any person who might have been a peti-



tioner, may apply to be substituted as the petitioner. R. S. O. 1927, c. 11, s. 70 (4); 1935, c. 10, s. 5.

(5) The court or judge may substitute the applicant as the sole petitioner, and, if the proposed withdrawal appears to be induced by any corrupt bargain or consideration, may direct that the security given shall remain as security for any costs that the substituted petitioner may be ordered to pay, and that to the extent of the security the original petitioner or petitioners shall be liable to pay such costs.

Order as to security where withdrawal is induced by corrupt bargain.

(6) If the court or judge makes no order with respect to the security given, security to the same amount as would be required in the case of a petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with the petition, and within four days after the order of substitution.

Security to be given by substituted petitioner.

(7) Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.

Liabilities of substituted petitioner.

(8) If a petition is withdrawn, the petitioner shall pay the costs of the respondent, unless the court or a judge otherwise order. R.S.O. 1927, c. 11, s. 70 (5-8).

Costs.

**71.** If it appears that the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, the court or judge shall report to the Speaker the circumstances attending the withdrawal. R.S.O. 1927, c. 11, s. 71.

Court to report whether withdrawal was the result of a corrupt arrangement, etc.

**72.—(1)** A petition shall abate on the death of a sole petitioner, or of the survival of several petitioners.

Abatement of petition by death.

(2) The abatement of a petition shall not affect any liability for costs previously incurred.

Costs.

(3) On the abatement of a petition the prescribed notice of the abatement shall be given in the electoral district, and any person who might have been a petitioner may apply to the court or a judge thereof in and at the prescribed manner, time and place to be substituted as the sole petitioner.

Notice of abatement to be given.

(4) The court or judge may substitute the applicant as the petitioner upon his giving security to the same amount as is required in the case of a petition. R.S.O. 1927, c. 11, s. 72.

Substitution of new petitioner on abatement.

Substitution  
of new  
petitioner  
where peti-  
tioner not  
qualified.

**73.** Where a petitioner is not qualified to be a petitioner, the petition shall not, on that account, be dismissed, if within such time as the court or a judge allows for that purpose another petitioner is substituted, and the substitution shall be made on such terms and conditions as to the court or judge may seem meet. R.S.O. 1927, c. 11, s. 73.

Notice  
required if  
respondent  
dies or seat  
becomes  
vacant.

**74.**—(1) If, before or during the trial of a petition,—

- (a) the respondent dies; or
- (b) the Assembly resolves that the seat is vacant; or
- (c) the respondent gives notice to the court or to the election court in and at the prescribed manner and time, that he does not intend to oppose, or further to oppose the petition,

notice of such event shall be given in the prescribed manner in the electoral district.

Application  
to be ad-  
mitted as a  
respondent.

(2) Within the prescribed time after the notice is given, any person who might have been a petitioner, may apply to the court or a judge to be admitted as a respondent to oppose the petition, or so much thereof as may remain undisposed of, and may be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent; and any number of persons, not exceeding three may be so admitted.

Adjourn-  
ment of trial.

(3) If any of the events mentioned in subsection 1 happen during the trial, the election court shall adjourn the trial in order that notice may be given as hereinbefore provided.

Disabilities  
of respon-  
dent in  
such case.

(4) A respondent who has given the prescribed notice shall not be allowed to appear or act as a party against the petition in any proceeding thereon, and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the petition, and the court shall report the giving of the notice to the Speaker. R.S.O. 1927, c. 11, s. 74.

#### *Trial for Corrupt Practices.*

Court for  
trial of  
corrupt  
practices.

**75.**—(1) Any two of the judges of the Supreme Court shall be and constitute a court, hereinafter called the Summary Trial Court, for the trial of corrupt practices and of offences punishable under section 197 of *The Election Act* committed at or in connection with an election.

Rev. Stat.,  
c. 8.

(2) For the purposes of this section the election court trying a petition shall be also a summary trial court.

Election court a summary trial court.

(3) If it is made to appear to a judge of the Supreme Court or to an election court by affidavit or by the evidence taken on the trial of the petition or otherwise that any person is charged with or has committed any such corrupt practice or offence, the judge or the election court, as the case may be, may order such person to appear before a summary trial court to answer the charge stated in the order at the time and place named therein.

Order of court where person charged with corrupt practice.

(4) The order may be served by delivering a copy thereof to the person charged or in such other manner as the judge of the election court or the summary trial court may direct.

Service of order.

(5) If the person charged does not attend at the time and place named in the order the summary trial court may issue a warrant to compel his attendance.

Issue of warrant on non-attendance.

(6) At the time and place named in the order, and upon proof of the service thereof, whether the person charged appears or not the summary trial court shall hear and determine the charge in a summary manner, and shall have the same powers, jurisdiction and authority for the investigation as an election court at the trial of a petition alleging corrupt practices, and may adjourn the hearing and the rendering of a decision from time to time and from place to place as may be deemed proper.

Disposal of case by court.

Powers of court.

(7) The person charged shall be entitled to be represented by counsel and to make his full answer and defence and to call and examine and to cross-examine witnesses in the same manner and to the same extent as a party to a petition.

Rights of person charged.

(8) If it is found that the person charged has been guilty of any corrupt practice or offence mentioned in the order, the court shall adjudge the same accordingly, and shall order that the person charged shall suffer the imprisonment or shall pay the amount of the money penalty and in default suffer the imprisonment, authorized or provided by law for the corrupt practice or offence of which he has been found guilty, and if the imprisonment is imposed may direct in what gaol or other place of confinement the person found guilty shall be imprisoned, and if no place is named the imprisonment shall be in the common gaol of the county in which the sentence is pronounced.

Order for payment of money penalty and imprisonment, if any.

(9) The court shall have power by the same or a subse-

Costs.

quent order to direct by whom the costs of the person prosecuting the charge or of the person charged or any part thereof shall be paid, and where costs are payable by a person found guilty payment may be enforced in the same manner as the payment of a money penalty.

Imprisonment in default of payment of money penalty.

(10) Where a money penalty is imposed the court shall direct that in default of the amount being paid forthwith or within a time not exceeding one month, to be limited by the court the person found guilty shall be imprisoned for a term not exceeding one year, in any gaol or other place of imprisonment to be named by the court, unless the amount of the penalty shall be sooner paid, and in default of any place being named the imprisonment shall be in the common gaol of the county in which the sentence is pronounced.

Commencement of term of imprisonment.

(11) Where a money penalty is imposed in addition to imprisonment the term of imprisonment in default of payment shall begin at the expiration of such first mentioned imprisonment.

Power of court as to imprisonment.

(12) For the infliction of the imprisonment imposed whether in the first instance or in default of payment of a penalty or of costs the court shall have the like authority as the Supreme Court to give effect to the judgment of the court, and the sheriff and gaoler shall obey all orders of the court made in that behalf.

Judgment a bar.

(13) The judgment shall be a bar to any other proceeding against the same person for the offence of which he has been found guilty.

Notice to person charged when present in court.

(14) If, upon the trial of a petition or upon the trial of any person under this section it appears to the court that a person then present in court has committed any such corrupt practice or offence, the court may then and there state to him the corrupt practice or offence with which he is charged, and may appoint a time and place for his trial, and it shall not be necessary to serve any further order for his attendance and the same proceedings may be had as if an order had been made and served under subsections 3 and 4.

Direction of prosecution.

(15) The election court may direct any counsel or solicitor present at the trial of a petition or the Crown attorney of the county in which the trial takes place to institute and carry on proceedings under this section against any person who from the evidence given at the trial appears to have committed such corrupt practice or offence.



(16) A Crown attorney or a counsel or solicitor who is directed to institute and carry on proceedings shall be entitled to costs and fees according to the Supreme Court scale or to such scale as may be fixed by the Lieutenant-Governor in Council, and if such costs and fees are not recovered from the person charged they shall be paid in the case of a county in the first instance by the county and the county shall be reimbursed out of the Consolidated Revenue Fund, and in the case of a district they shall be paid out of the Consolidated Revenue Fund.

Fees of  
counsel  
other than  
Crown  
attorney.

(17) Witnesses shall be entitled to receive fees and allowances for attending at the proceedings payable on the scale and in the manner provided by *The Crown Witness Act*.

Witness fees.

Rev. Stat.,  
c. 142.

(18) The court may upon the application of the person prosecuting the charge make an order for payment forthwith of the penalty imposed and costs without directing imprisonment in default of payment, and that execution may be issued out of such office of the Supreme Court as the court may direct, and that any other proceedings may be taken for the recovery of the penalty imposed and costs which might be taken upon a judgment of the Supreme Court.

Order for  
payment and  
issue of  
execution.

(19) If a money penalty is recovered at the instance of a private prosecutor under this section one half shall belong to him and the other half to the Crown.

Application  
of money  
penalties.

(20) Where practicable the election court trying a petition shall, during such trial, or immediately thereafter, proceed with the trial of persons who appear to have committed or who are charged with having committed any such corrupt practices or offences.

Trial for  
corrupt  
practices to  
follow trial  
of petition.

(21) Every such proceeding shall be commenced within the space of one year next after the corrupt practice or offence complained of was committed and not afterwards.

Limitation  
of time for  
commence-  
ment of  
prosecution.

R.S.O. 1927, c. 11, s. 75.

#### COSTS GENERALLY.

**76.** Except as otherwise herein provided the costs, charges and expenses of and incidental to or consequent upon or arising out of a petition shall be in the discretion of the court or judge before whom the proceeding is pending who shall have full power to determine by whom, in what manner and to what extent the same shall be paid. R.S.O. 1927, c. 11, s. 76.

Costs to be  
in discretion  
of court.



When  
petition filed  
before  
notice of  
disclaimer.

**77.** If a petition is filed before the petitioner has notice of the filing of a disclaimer, and is dismissed in consequence of the disclaimer, the respondent shall pay all costs of the petitioner up to the time the petitioner receives notice of the disclaimer, and the costs of the application to dismiss. R.S.O. 1927, c. 11, s. 77.

[For provisions as to candidates disclaiming, see *The Legislative Assembly Act*, *Rev. Stat. c. 12, secs. 18-22.*]

When agent  
may be  
ordered to  
pay costs.

**78.**—(1) If, on the trial of a petition it is adjudged that a corrupt practice has been committed by an agent, but without the actual knowledge and consent of the candidate and costs are awarded against the candidate, the election court on the application of any party to the petition may order the agent to be summoned to appear before an election court at a time fixed in the order to show cause why he should not be ordered to pay such costs or so much thereof as may seem just and to indemnify the candidate against the payment thereof.

If agent does  
not appear.

(2) If, at the time so fixed the agent does not appear, he may be ordered upon the evidence given at the trial of the petition, and such further evidence, if any, as may be adduced to pay the whole or such part of the costs awarded against the candidate as may seem just, and to indemnify the candidate against the payment thereof, and if the agent appears such order may be made as may seem just after hearing the parties and such evidence as may be adduced.

Execution  
for costs.

(3) The party to whom costs are awarded shall be entitled to issue execution for the amount ordered to be paid by the agent against the agent as well as against the candidate.

Repayment  
of costs by  
agent to  
candidate.

(4) If the costs awarded against the agent are paid by the candidate he shall be entitled to be repaid the same by the agent, and may upon the order of the court or a judge issue execution against the agent therefor. R.S.O. 1927, c. 11, s. 78.

Taxation and  
recovery of  
costs.

**79.**—(1) The total amount to be allowed for counsel fees in respect to the trial upon taxation as between party and party shall not exceed \$50 for the first day upon which the trial is held, and \$40 for each subsequent day during which it is continued.

Counsel fees.

(2) No greater sum than \$300 in addition to counsel fees shall be taxable against either party as costs in the cause in addition to witness fees and other actual and necessary dis-

bursements taxable as between party and party in an action in the Supreme Court.

(3) This section shall not apply to costs taxable against a candidate who has incurred the penalties and disabilities provided by *The Election Act* for corrupt practices committed by him or with his actual knowledge and consent. R.S.O. 1927, c. 11, s. 79.

No limitation in certain cases. Rev. Stat., c. 8.

**80.**—(1) A party to whom costs are awarded against the petitioner may, within thirty days from the date of the judgment or order awarding the same or within such other time as the court or judge may allow, file the certificate of taxation with the registrar and at the expiration of the said period shall be entitled to receive out of the deposit the amount taxed to him.

Recovery of costs against petitioner.

(2) If the total amount of the certificates so filed exceeds the deposit each of the parties filing the same shall be entitled to receive his proportion thereof, and may forthwith issue execution for the residue. R.S.O. 1927, c. 11, s. 80.

Where costs exceed deposit.

**81.** The costs of a petition shall not be awarded against a candidate where he is not, by the judgment of the court, unseated; but this section shall not apply to cross petitions. R.S.O. 1927, c. 11, s. 81.

Costs not to be awarded against candidate who is not unseated.

**82.** No costs beyond those taxable between party and party shall, in the absence of a special contract, be taxable between solicitor and client. R.S.O. 1927, c. 11, s. 82.

Provisions as to costs not specially provided for.

#### MISCELLANEOUS.

**83.** Unless the election court otherwise directs, it shall not be necessary on the trial of a petition or of any proceeding under this Act to prove the writ of election or the return thereof. R.S.O. 1927, c. 11, s. 83.

Writ, etc., need not be produced at trial.

**84.** The court and any judge of the Supreme Court, for the purpose of enforcing obedience to any judgment or order, or for punishing contempt, shall have power to grant a writ of attachment. R.S.O. 1927, c. 11, s. 84.

Power to punish for contempt and enforce rules.

**85.**—(1) The travelling and other expenses of the judges and the expenses incurred by the sheriff in attending them and in providing the court and accessories, and the fees and travelling and other expenses of the registrar shall be audited and paid in the same manner as the fees and expenses allowed to other officers under *The Election Act*.

Expenses of Court, how payable.

Rev. Stat., c. 8.

When  
payable  
by parties.

(2) The fees and expenses of the sheriff and other officers for publishing any notice or for the service of process or other papers at the instance of any party to the petition shall be costs in the cause and shall be borne and paid in the first instance by the party on whose behalf such services are rendered. 1928, c. 4, s. 2.

Prosecution  
of persons  
reported for  
corrupt  
practices.

**86.** Where an election court reports that any person has been guilty of a corrupt practice, it shall be the duty of the Crown attorney to prosecute such persons unless the election court otherwise directs. R.S.O. 1927, c. 11, s. 86.

Election not  
to be ques-  
tioned except  
under Act.

**87.** No election or return shall be questioned except in accordance with the provisions of this Act. R.S.O. 1927, c. 11, s. 87.

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## CHAPTER 12.

## The Legislative Assembly Act.

**1.** The Assembly shall be composed of so many members as shall, from time to time, be fixed by *The Representation Act*. R.S.O. 1927, c. 12, s. 1. Assembly—how composed. Rev. Stat., c. 6.

**2.—(1)** The Assembly shall not determine or be dissolved by the demise of the Crown, but shall continue, and may meet, convene and sit, proceed and act, in the same manner as if such demise had not happened. Not dissolved by demise of the Crown.

**(2)** Nothing in this section shall alter or abridge the power of the Crown to prorogue or dissolve the Assembly. R.S.O. 1927, c. 12, s. 2. Power to prorogue or dissolve not affected.

**3.** Every Assembly shall continue for five years from the fifty-fifth day after the date of the writs for the election and no longer, subject to being sooner dissolved by the Lieutenant-Governor. R.S.O. 1927, c. 12, s. 3; 1930, c. 4, s. 2. Duration of Assembly.

**4.** There shall be a session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one session and its first sitting in the next. R.S.O. 1927, c. 12, s. 4. Yearly session.

**5.** It shall not be necessary for the Lieutenant-Governor in proroguing the Legislature to name any day to which the same is prorogued; nor to issue a formal proclamation for a meeting of the Legislature when it is not intended that the Legislature shall meet for despatch of business. R.S.O. 1927, c. 12, s. 5. Prorogation of Legislature; formal proclamations unnecessary.

**6.—(1)** Subject to the provisions of subsection 2 the persons qualified to sit and vote as members of the Assembly shall be any male or female persons of the full age of twenty-one years who are British subjects by birth or by naturalization under the laws of the Dominion of Canada from time to time in force, resident in Ontario and not disqualified by this or any other Act from election to the Assembly. Qualification of members of Assembly.

When  
women to  
be deemed  
British  
subjects.

(2) For the purposes of this Act a female person shall be deemed to be a British subject,—

- (a) if she was born a British subject and is unmarried, or is married to a British subject and has not become a subject of any foreign power; or
- (b) if she has herself been personally naturalized as a British subject and has not since become the subject of a foreign power; or
- (c) if she has become a British subject by marriage or by the naturalization as a British subject of her parent while she was a minor, and in either case has done nothing to forfeit or lose her status as a British subject, and has obtained a certificate under the signature of a judge of the Supreme Court or of a county or district court, and the seal of the court, certifying that such female is of the full age of twenty-one years, has resided in Canada a sufficient length of time and is possessed of all requirements necessary to entitle her, if unmarried, to become naturalized as a British subject, and that she has taken the oath of allegiance to His Majesty.  
R.S.O. 1927, c. 12, s. 6.

#### DISQUALIFICATIONS.

Senator or  
member of  
House of  
Commons  
disqualified.

7. No person who on the day of nomination for election to the Assembly is a Senator or member of the House of Commons of Canada shall be eligible as a member of the Assembly or be returned as elected thereto, and if any such person receives a majority of votes at an election the votes cast for him shall be thrown away and the returning officer shall return the person having the next greatest number of votes if he is otherwise eligible. R.S.O. 1927, c. 12, s. 7.

Vacation  
of seat.

8. If a member of the Assembly is elected and returned to the House of Commons or is appointed to the Senate of Canada, his seat in the Assembly shall thereupon be vacated and a writ shall issue forthwith for a new election to fill the vacancy. R.S.O. 1927, c. 12, s. 8.

Disqualifica-  
tion of  
persons  
holding  
office under  
Crown.

9.—(1) Except as hereinafter specially provided no person accepting or holding any office, commission or employment in the service of the Government of Canada, or of the Government of Ontario at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada or of the Government of Ontario to which any salary,



fee, wage, allowance, emolument or profit of any kind is attached shall be eligible as a member of the Assembly, or shall sit or vote therein.

(2) Nothing in this section shall render ineligible as afore- Exceptions.  
said or disqualify from sitting and voting in the Assembly  
when not otherwise disqualified,—

- (a) a member of the Executive Council;
- (b) an officer of His Majesty's army or navy, or an officer in the militia or a militiaman;
- (c) a justice of the peace, coroner, notary public or public school inspector;
- (d) any person holding any temporary employment in <sup>R.S.C.,</sup> the service of the Dominion of Canada requiring <sup>c. 99.</sup> special qualifications or professional skill, or a commissioner appointed under *The Inquiries Act* (Canada); or
- (e) a member of any commission, committee or other body appointed under the authority of any Act of this Legislature and declared by such Act to be entitled to any remuneration or allowance while a member of the Assembly. R.S.O. 1927, c. 12, s. 9 (a, c-f); 1937, c. 37, s. 2.

**10.** No person holding or enjoying, undertaking or exe- Ineligibility  
cuting, directly or indirectly, alone or with another, by him- of public  
self or by the interposition of a trustee or third person, any contractors.  
contract or agreement with His Majesty, or with any public officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service, work, matter or thing, shall be eligible as a member of or sit or vote in the Assembly. R.S.O. 1927, c. 12, s. 10.

**11.—**(1) No person shall be ineligible as a member of the Exceptions.  
Assembly,—

- (a) by reason of his being interested as an executor, Trustees for  
administrator or trustee only, having otherwise no estates of  
beneficial interest in any such contract or agree- contractors.  
ment;
- (b) by reason of his being a shareholder or stockholder Shareholder  
in an incorporated company having any such in con-  
contract or agreement; unless such contract or tracting  
not  
disqualified.

Exceptions.

agreement is for the building of a public work for the Province, and such building or work has not been let by tender to the lowest bidder;

Lenders of money to Government.

- (c) by reason of his being a contractor for the loan of money or for securities for the payment of money to the Government of Ontario under the authority of the Legislature after public competition or respecting the purchase or payment of the public stock or debentures of Ontario on terms common to all persons;

Holder of mining license, etc.

- (d) by reason of his being the holder of a mining license or having a contract or agreement with His Majesty or with any public officer or department with respect to the same or to mines or mining rights; but no such person shall vote on any question affecting such license, contract or agreement or in which he is interested by reason thereof;

Owners and persons interested in certain newspapers.

- (e) by reason of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements are inserted which appear in other newspapers or publications in Ontario, or which is subscribed for by the Government of Ontario, or any department thereof, or by any of the public institutions of the Province, unless such advertisements or subscriptions are paid for out of the public moneys of Ontario, at rates greater than usual rates;

Timber licensee.

- (f) by reason of his holding a license, permit or permission for cutting timber, or being interested in any such license, permit or permission, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, or by reason of there being money due or payable to His Majesty in respect of timber cut; but no such person shall vote on any question affecting such license, permit or permission, or in which he is interested by reason thereof;

Fishery licenses.

- (g) by reason of his being the holder of a fishery license, or having a contract or agreement with His Majesty or with any public officer or department with respect to the same or to fisheries or fishing rights; but no such person shall vote on any question affecting such license, contract or agreement, or in which he is interested by reason thereof;

- (h) by reason of his being a surety or contractor or liable for the payment of money for or on account of the maintenance or tuition of an inmate or pupil of any Government institution; Certain sureties or obligors.
- (i) by reason of his being a postmaster elsewhere than in a city, town or incorporated village, or interested in a contract for carrying the mail between two or more post offices neither of which is in a city, town or incorporated village or of his being the surety of any such postmaster or contractor; Certain postmasters and mail carriers.
- (j) by reason of his receiving or having received or agreed to receive compensation in respect to any property taken or purchased by the Crown or by any department or commission of the Government of Ontario or with respect to any interest in such property where the amount of such compensation has been fixed by an award made under *The Public Works Act* or any other general or special Act of Ontario, or has been agreed upon and the judge of the county or district court of the county or district in which the property is situate has certified in writing that the amount of compensation is fair and reasonable, but no such person shall vote on any question arising in the Assembly touching such matter. Receipt of compensation for land not to disqualify. Rev. Stat., c. 54.
- (k) by reason of his being a surety for a public officer or Ontario land surveyor or other person required by law to furnish security to the Crown. Sureties of public officers.

(2) A person elected a member of the Assembly, who is at the time of his election a surety as aforesaid, shall, before he sits or votes therein take and complete such action as may be requisite to relieve him from any thereafter accruing liability in respect of his suretyship, and no person who is liable as such surety in respect of any accruing matter shall sit or vote in the Assembly. R.S.O. 1927, c. 12, s. 11. Duty of sureties who have been elected.

**12.** No disqualification, under section 9 or 10 on any ground arising before the election shall be held by any court to affect the seat of a member of the Assembly or to disentitle any person to sit or vote therein, until such disqualification has been duly found and declared by an election court; but this is not to be construed as affecting the cases provided for by subsection 2 of section 11, nor as affecting the right of the Assembly to expel a member according to the practice of Parliament or otherwise. R.S.O. 1927, c. 12, s. 12. When disqualification to become operative. Exceptions.

Effect of election of disqualified person.

**13.** If a person who is disqualified or ineligible or incapable of being elected a member of the Assembly, is nevertheless elected and returned, his election and return shall be null and void. R.S.O. 1927, c. 12, s. 13.

When re-election unnecessary on appointment to Executive Council.

**14.** Notwithstanding anything in any Act where a member of the Assembly is appointed a member of the Executive Council within three months after the day fixed for polling at a general election and before the opening of the first session held after such date, he shall not, by reason of the acceptance of such appointment, vacate his seat or be disqualified from sitting or voting in the Assembly. R.S.O. 1927, c. 12, s. 14.

Disqualification through acceptance of office.

Re-election.

**15.—(1)** If a member of the Assembly by becoming a member of the Executive Council, or by accepting any other office or becoming a party to a contract or agreement as in sections 9 and 10 mentioned, is disqualified by law to continue to sit or vote in the Assembly, his seat shall be vacated; but he may be re-elected if he is not declared ineligible under this Act. R.S.O. 1927, c. 12, s. 15 (1).

Saving in case of exchange of offices in Executive Council.

**(2)** Nevertheless, whenever any person holding the office of President of the Council, Attorney-General, Secretary and Registrar of Ontario, Treasurer of Ontario, Minister of Lands and Forests, Minister of Mines, Minister of Agriculture, Minister of Public Works and Highways, Minister of Education, Minister of Health, Minister of Municipal Affairs, Minister of Public Welfare, or Minister of Labour, and being at the same time a member of the Assembly, resigns his office, and within one month after his resignation accepts any other of the said offices, he shall not thereby vacate his seat in the Assembly, unless the Administration of which he was a member has resigned, and a new Administration occupies the said offices, and in case a member of the Executive Council holding any one of the said offices, is appointed to hold another office in addition to or in connection with such first mentioned office, he shall not thereby vacate his seat, and any increase or change of emolument arising from the holding of such two offices shall not cause a vacancy or render a re-election necessary. R.S.O. 1927 c. 12, s. 15 (2); 1937 c. 37, s. 3.

Penalty upon disqualified person sitting or voting.

**16.—(1)** Subject to the provisions of section 12, a person ineligible as a member of or disqualified from sitting or voting in the Assembly who sits or votes therein while he is so ineligible or disqualified, shall forfeit the sum of \$2,000 for every day on which he so sits or votes, and the said sum may be recovered from him by any person who sues for the same in any court of competent jurisdiction.

Recovery.



(2) If any action is brought and judgment is recovered <sup>Idem.</sup> against the defendant, no other action shall be brought or proceeding taken against the same person for any offence under this section committed before notice to him of the recovery of the judgment.

(3) The court wherein any other action is brought, contrary to the intent and meaning of this Act, may upon the defendant's motion, stay the proceedings therein, if the first mentioned action be prosecuted without fraud, and with effect; but no action shall be deemed an action within this section, unless so prosecuted. R.S.O. 1927, c. 12, s. 16. <sup>Staying proceedings in other actions.</sup>

#### OATH OF MEMBER ELECT.

**17.** Before a member elect is permitted to take the oath required by section 128 of *The British North America Act*, he shall file with the clerk, an affidavit (Form I). R.S.O. 1927, c. 12, s. 17. <sup>Affidavit as to election expenses, etc.</sup>

#### DISCLAIMER.

**18.** A member elect may at any time before his election is complained of disclaim his seat in the manner hereinafter provided, and he shall thereby vacate the seat, and cease to be a member in respect of the seat so disclaimed. R.S.O. 1927, c. 12, s. 18. <sup>Disclaimer by member elect.</sup>

**19.** A member elect who desires to disclaim may transmit, postpaid and registered, through the post office, directed to "The Clerk of the Legislative Assembly, Toronto," or may cause to be delivered to the Clerk, a disclaimer signed by the member in the presence of two subscribing witnesses to the effect following:— <sup>Mode of disclaiming.</sup>

"I, A. B., member elect to the Legislative Assembly for the electoral district of \_\_\_\_\_, hereby disclaim all my right or title to sit or vote or in any manner to act as such member." <sup>Form of disclaimer.</sup>

R.S.O. 1927, c. 12, s. 19.

**20.** The Clerk shall, on receiving a disclaimer, forthwith send a copy thereof <sup>Transmission of copy of disclaimer,</sup>

(a) In the case of an election which has taken place in the County of York or the City of Toronto, to the registrar of the Court of Appeal at Toronto; <sup>in County of York or Toronto;</sup>

(b) in the case of an election which has taken place elsewhere, to the local registrar, for the county or pro- <sup>in other places.</sup>



visional judicial district in which the electoral district for which the member so disclaiming or any part thereof is situate, was elected. R.S.O. 1927, c. 12, s. 20.

Dismissal of petition where disclaimer filed.

**21.** A petition which has been presented before the petitioner has notice of the filing of a disclaimer and in which the election is complained of on any ground other than of corrupt practices committed by the member elect or of corrupt practices having extensively prevailed at the election and in which the seat is not claimed for the petitioner or some other person, may be dismissed by a judge of the Court of Appeal on notice to the petitioner and on proof by affidavit that such disclaimer has been given in the prescribed manner. R.S.O. 1927, c. 12, s. 21.

Issuing writ when no petition filed after disclaimer.

Rev. Stat., c. 11.

**22.** If no petition is filed within the time limited for that purpose by *The Controverted Elections Act*, or if the petition is dismissed, the Lieutenant-Governor in Council may direct the issue of a new writ for the election of a member in the place of the member disclaiming. R.S.O. 1927, c. 12, s. 22.

#### RESIGNATION.

Resignation before meeting of Legislature.

**23.** If a person returned as elected for one or more electoral districts at a general election wishes to resign his seat, or one of his seats, before the first meeting of this Legislature thereafter, he may address and cause to be delivered to any two members elect of the Assembly a declaration that he resigns his seat, made in writing under his hand before two subscribing witnesses, and the two members upon receiving the declaration shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member for the electoral district in the place of the member so resigning, and the writ shall issue accordingly. R.S.O. 1927, c. 12, s. 23.

In other cases.

**24.**—(1) A member may also resign his seat,—

- (a) by giving in his place in the Assembly notice of his intention to resign it, which notice shall be immediately entered by the Clerk upon the Journals of the Assembly; or
- (b) by addressing and causing to be delivered to the Speaker a declaration that he resigns his seat, made in writing under his hand before two sub-

scribing witnesses, which declaration may be so made and delivered either during a session of the Legislature or in the interval between two sessions.

(2) An entry of the declaration so delivered to the Speaker shall thereafter be made upon the Journals of the Assembly. Record.

(3) Immediately after the notice of intention to resign has been entered upon the Journals, or after the receipt of the declaration, as the case may be, the Speaker shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member in the place of the member so resigning, and in either case a writ shall issue accordingly. New writ. R.S.O. 1927, c. 12, s. 24.

**25.** If a member wishes to resign his seat in the interval between two sessions of this Legislature, and there is then no Speaker, or the Speaker is absent from the Province, or if the member is himself the Speaker, he may address and cause to be delivered to two members, the declaration before mentioned, and the two members, upon receiving the declaration, shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member in the place of the member so resigning, and the writ shall issue accordingly. Where there is no Speaker, or the member is himself the Speaker. R.S.O. 1927, c. 12, s. 25.

**26.—(1)** A member or member elect tendering his resignation in any manner hereinbefore provided for shall be deemed to have vacated his seat and to have ceased to be a member of the Assembly in respect thereof. Consequences of resignation.

(2) A member or member elect shall not tender his resignation while his election is controverted, nor until after the expiration of the time within which an election petition may be filed. Time for resignation. R.S.O. 1927, c. 12, s. 26.

**27.** Forthwith after the receipt by the Speaker, or if there is no Speaker, or the Speaker is absent from the Province, by the Clerk of the House, of a certificate under *The Controverted Elections Act* that an election was void, the Speaker or Clerk, as the case may be, shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member for the electoral district, the election for which has been certified to be void, and the writ shall issue accordingly. Issue of writ for new election, when election declared void. Rev. Stat., c. 11. R.S.O. 1927, c. 12, s. 27.

Notification.

**28.** The Speaker shall forthwith after the receipt of the certificate, in section 27 mentioned, communicate the same to the Clerk of the Assembly. R.S.O. 1927, c. 12, s. 28.

Report to  
Assembly.

**29.** The proceedings taken under sections 23 to 28 by the Speaker or Clerk shall be reported to the Assembly at the earliest practicable time, and shall be forthwith entered on the Journals. R.S.O. 1927, c. 12, s. 29.

Disqualifi-  
cation of  
persons de-  
clared not  
elected.

**30.—(1)** If a person returned as elected appears by the certificate mentioned in section 27 not to have been duly returned or elected, he shall not thereafter unless re-elected sit or vote in that Assembly.

Rights of  
persons de-  
clared  
elected.

**(2)** If a person, other than the person returned as elected, appears by the certificate to have been duly returned or elected, he shall thereupon be entitled to sit and vote in the Assembly. R.S.O. 1927, c. 12, s. 30.

Writ not to  
issue during  
session.

**31.** No writ shall issue under any of the provisions of sections 23 to 30 during a session of the Assembly. R.S.O. 1927, c. 12, s. 31.

Proceedings  
in case of  
vacancy by  
death or ac-  
ceptance of  
office.

**32.—(1)** If a vacancy happens in the Assembly by the death of a member, or by his accepting an office, commission or employment, or by his becoming a party to a contract as mentioned in section 10, unless otherwise provided by this Act, the Speaker, on being informed of the vacancy by a member of the Assembly in his place, or by notice in writing under the hands and seals of two members, shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member to fill the vacancy, and a writ shall issue accordingly.

Proceedings  
when  
Speaker is  
absent from  
Ontario, or  
there is no  
Speaker.

**(2)** If any such vacancy happens, or at any time thereafter, before the warrant for the writ has issued, there is no Speaker, or the Speaker is absent from the Province, or if the member whose seat is vacated is himself the Speaker, then two members may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R.S.O. 1927, c. 12, s. 32.

Filling a  
vacancy  
before  
Assembly  
meets after  
a general  
election.

**33.—(1)** A warrant may issue under the hands and seals of two members elect to the Clerk of the Crown in Chancery for the issue of a writ for the election of a member to fill a vacancy arising subsequently to a general election and before the first meeting of the Assembly thereafter, by reason of any

of the causes mentioned in section 32, and the writ may issue at any time after such vacancy.

(2) The election to be held under the writ shall not affect the right of any person entitled to contest the previous election; and the election court shall determine whether the member who has died or whose seat has become vacant as aforesaid, or any other person, was duly returned or elected, which determination, if adverse to the return of such member and in favour of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no subsequent election had been held. R.S.O. 1927, c. 12, s. 33.

**34.** Subject to the provisions of section 31, if the seat of a member of the Assembly has been vacant for three months and no writ has been issued, the Clerk of the Crown in Chancery shall issue the writ forthwith. R.S.O. 1927, c. 12, s. 34.

#### THE SPEAKER.

**35.** The Assembly at its first meeting after a general election shall proceed to elect one of its members to be Speaker. R.S.O. 1927, c. 12, s. 35.

**36.** In case of a vacancy happening in the office of Speaker, the Assembly shall proceed to elect another of its members to be Speaker. R.S.O. 1927, c. 12, s. 36.

**37.** Such salary shall be payable to the Speaker as may be appropriated for that purpose. R.S.O. 1927, c. 12, s. 37.

**38.** The Speaker shall preside at all meetings of the Assembly. R.S.O. 1927, c. 12, s. 38.

**39.** Whenever the Speaker finds it necessary to leave the chair during any part of the sittings on any day, he may call upon any member to take the chair and to act as Speaker during the remainder of the day unless the Speaker himself resumes the chair before the close of the sittings for that day. R.S.O. 1927, c. 12, s. 39.

**40.** Whenever the Speaker is not present at the meeting of the Assembly on any day, the Assembly may elect a member to take the chair and act as Speaker for that day. R.S.O. 1927, c. 12, s. 40.



Election of  
Speaker  
pro tem.

**41.** If the Speaker is absent from the chair for a period of forty-eight consecutive hours, the Assembly may elect another of its members to act as Speaker, and the member so elected shall during the continuance of the absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. R.S.O. 1927, c. 12, s. 41.

Validity of  
acts while  
acting  
Speaker  
presides.

**42.** Every Act passed, and every order made and thing done by the Assembly while any member is acting as Speaker, shall be as valid and effectual as if done while the Speaker himself was in the chair. R.S.O. 1927, c. 12, s. 42.

#### POWERS AND PRIVILEGES OF THE ASSEMBLY.

Power to  
compel  
attendance  
of witnesses,  
etc.

**43.** The Assembly may at all times command and compel the attendance before the Assembly, or a committee thereof, of such persons, and the production of such papers and things as the Assembly or committee may deem necessary for any of its proceedings or deliberations. R.S.O. 1927, c. 12, s. 43.

Speaker's  
warrant for  
attendance,  
etc.

**44.** Whenever the Assembly requires the attendance of any person before the Assembly or a committee thereof, the Speaker may issue his warrant directed to the person named in the Order of the Assembly, requiring the attendance of such person before the Assembly or committee and the production of such papers and things as may be ordered. R.S.O. 1927, c. 12, s. 44.

Protection of  
persons  
acting under  
authority.

Warrants  
may com-  
mand aid.

**45.** No person shall be liable, in damages or otherwise, for any act done under the authority of the Assembly, and within its legal power, or under or by virtue of a warrant issued under such authority; every such warrant may command the aid and assistance of all sheriffs, bailiffs, constables, and others; and every refusal or failure to give such aid or assistance when required shall be a contravention of this Act. R.S.O. 1927, c. 12, s. 45.

Privilege of  
speech, etc.

**46.** A member of the Assembly shall not be liable to any civil action or prosecution, arrest, imprisonment, or damages, by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof. R.S.O. 1927, c. 12, s. 46.

Freedom  
from arrest.

**47.** Except for a contravention of this Act, a member of the Assembly shall not be liable to arrest, detention or molestation for any cause or matter whatever of a civil nature, during a session of the Legislature, and during the twenty days preceding and the twenty days following the session. R.S.O. 1927, c. 12, s. 47.



**48.** During the periods mentioned in section 47, members, officers and employees of the Assembly, and witnesses summoned to attend before the Assembly or a committee thereof, shall be exempt from serving or attending as jurors in any court of justice in Ontario. R.S.O. 1927, c. 12, s. 48.

Exemption of members and officers from serving as jurors.

**49.** No member of the Assembly shall knowingly accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted or intended to be submitted to the Assembly or a committee thereof. R.S.O. 1927, c. 12, s. 49.

Members not to receive fees for drafting bills, etc.

**50.** No barrister or solicitor who, in the practice of his profession, is a partner of a member of the Assembly, shall knowingly accept or receive, directly or indirectly, any fee, compensation or reward for or in respect of any matter or thing in section 49 mentioned. R.S.O. 1927, c. 12, s. 50.

Barristers, etc., being partners of members not to receive fees for drafting bills, etc.

**51.** Any person violating any of the provisions of sections 49 and 50 shall incur a penalty equal to the amount or value of the fee, compensation or reward accepted or received by him and the sum of \$500. R.S.O. 1927, c. 12, s. 51.

Penalty for violation of ss. 49 and 50.

**52.** Any violation of section 49 shall be a corrupt practice, and an election petition setting up the same may be filed within six months after the offence in the same manner, and the proceedings thereupon shall be the same as in the case of other election petitions. R.S.O. 1927, c. 12, s. 52.

Breach of s. 49 to be deemed a corrupt practice.

**53.** If judgment is recovered against a member of the Assembly for any penalty under section 51, or if by a resolution of the Assembly it is declared that a member thereof has been guilty of a violation of section 49, or if upon an election petition it is found that a member has been guilty of a violation of section 49, his election shall become void, and his seat shall be vacated, and a writ shall issue for a new election as if he were naturally dead and he shall be incapable of being elected to or of sitting in the Assembly during the remainder of the term for which he was elected. R.S.O. 1927, c. 12, s. 53.

Vacation of seat.

**54.—(1)** The Assembly shall have all the rights and privileges of a court of record for the purposes of summarily inquiring into and punishing, as breaches of privilege or as contempts and without affecting the liability of the offenders to prosecution and punishment criminally or otherwise according to law, independently of this Act, the acts, matters and things following:—

Jurisdiction of Assembly.

- Assaults, insults libels. (a) assault, insult or libel upon a member of the Assembly during the session of the Legislature and twenty days before and after the same;
- Threats. (b) obstructing, threatening or attempting to force or intimidate a member of the Assembly;
- Bribery and offering of fee. (c) offering to, or the acceptance by, a member of the Assembly of a bribe to influence him in his proceedings as such, or offering to or the acceptance by a member of any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted to or intended to be submitted to the Assembly or a committee thereof;
- Interference with officers. (d) assault upon or interference with an officer of the Assembly, while in the execution of his duty;
- Tampering with witness. (e) tampering with a witness in regard to evidence to be given by him before the Assembly, or a committee thereof;
- False evidence. (f) giving false evidence or prevaricating or misbehaving in giving evidence or refusing to give evidence or to produce papers before the Assembly or a committee thereof;
- Disobedience to subpoena. (g) disobedience to a warrant requiring the attendance of a witness before the Assembly or a committee thereof, or refusal or neglect to obey a warrant mentioned in section 45;
- Presenting false documents. (h) presenting to the Assembly or to a committee thereof a forged or false document, with intent to deceive the Assembly or committee;
- Falsifying records, etc. (i) forging, falsifying or unlawfully altering a record of the Assembly, or of a committee thereof, or any document or petition presented or filed or intended to be presented or filed before the Assembly or committee, or the setting or subscribing, by any person, of the name of another person to any such document or petition with intent to deceive;
- Bringing action or arresting for conduct as member. (j) taking any civil proceeding against, or causing or effecting the arrest or imprisonment of a member of the Assembly in any civil proceeding, for or

by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Assembly or a committee thereof;

- (k) causing or effecting the arrest, detention, or molestation of a member of the Assembly for any cause or matter of a civil nature, during a session of the Legislature and during the twenty days following and the twenty days preceding the session. Arresting for debt, etc.

(2) For the purposes of this Act, the Assembly shall possess all powers and jurisdiction necessary or expedient for inquiring into, adjudging and pronouncing upon the commission or doing the acts, matters or things mentioned in subsection 1 and for awarding and carrying into execution the punishment thereof. R.S.O. 1927, c. 12, s. 54. Jurisdiction given as to inquiring and punishing.

**55.** Every person who, upon such inquiry, is found to have committed or done any of the acts, matters, or things in section 54 mentioned, in addition to any other penalty or punishment to which he may by law be subject, shall be liable to imprisonment for such time, during the session of this Legislature then being held, as may be determined by the Assembly. R.S.O. 1927, c. 12, s. 55. Punishment for contravention of s. 54.

**56.**—(1) Wherever the Assembly declares that any person has been guilty of any breach of privilege or of a contempt in respect of any of the acts, matters and things in section 54 mentioned and directs that such person shall be kept and detained in the custody of the Sergeant-at-Arms attending the Assembly, the Speaker shall issue his warrant to the Sergeant-at-Arms to take such person into custody and to keep and detain him in custody in accordance with the order of the Assembly. Proceeding on contravention of s. 54 and arrest thereunder.

(2) Where the Assembly directs that the imprisonment shall be in the common gaol in the County of York, the Speaker shall issue his warrant to the Sergeant-at-Arms and to the governor or keeper of such common gaol commanding the Sergeant-at-Arms to take such person into custody and to deliver him to the governor or keeper of such common gaol, and commanding the governor or keeper of the common gaol to receive and keep and detain him in custody in accordance with the order of the Assembly. R.S.O. 1927, c. 12, s. 56. Warrant of committal.

**57.** The determination of the Assembly upon any proceeding under this Act shall be final and conclusive. R.S.O. 1927, c. 12, s. 57. Decision of Assembly to be final.

Protection of persons publishing papers by order of Assembly.

**58.**—(1) Any person who is a defendant in any civil proceeding commenced in any manner for or in respect of the publication of any report, paper, vote or proceeding by such person or by his servant, by or under the authority of the Assembly may bring before the court in which such proceeding is pending (first giving twenty-four hours' notice of his intention so to do to the plaintiff or his solicitor), a certificate under the hand of the Speaker, or of the Clerk of the Assembly, stating that the report, paper, vote or proceeding in respect whereof such proceeding has been commenced was published by such person or by his servant by order or under the authority of the Assembly together with an affidavit verifying such certificate.

Stay of proceedings.

(2) The court shall thereupon immediately stay such proceeding and the same and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1927, c. 12, s. 58.

Production of papers to court.

**59.**—(1) If a civil proceeding is commenced for or in respect of the publication of any copy of such report, paper, vote or proceeding, the defendant at any stage of the proceeding may lay before the court such report, paper, vote or proceeding and such copy with an affidavit verifying such report, paper, vote or proceeding and the correctness of such copy.

Stay of proceedings.

(2) The court shall thereupon immediately stay such proceeding and the same and every writ or process issued therein shall be taken to be finally put an end to, determined and superseded. R.S.O. 1927, c. 12, s. 59.

*Bona fide* publication.

**60.** It shall be a good defence to any civil proceeding against a person for printing any extract from or abstract of any such report, paper, vote or proceeding, that the extract or abstract was published *bona fide* and without malice. R.S.O. 1927, c. 12, s. 60.

Saving of privileges inherent in Assembly or members.

**61.** Except so far as is provided by section 49, nothing herein shall be construed to deprive the Assembly, or a committee or member thereof, of any right, immunity, privilege or power which the Assembly, committee or member might otherwise have been entitled to exercise or enjoy. R.S.O. 1927, c. 12, s. 61.

Appointment of librarian and officers of Library.

**62.** The Lieutenant-Governor in Council may appoint a librarian and such other officers, clerks and servants of the Legislative Library as may be deemed necessary. R.S.O. 1927, c. 12, s. 62.



## PURCHASE AND DISTRIBUTION OF PUBLICATIONS.

**63.** Where the Assembly has adopted the report of the Printing Committee of the Assembly recommending the purchase of any publication for the use of the members of the Assembly or for other persons such work may be purchased by the Treasurer of Ontario and distributed according to the recommendations of the report, and the cost thereof shall be paid out of any sum appropriated by the Legislature for stationery, printing and binding. R.S.O. 1927, c. 12, s. 63.

Payment for books ordered by Printing Committee.

## QUORUM AND MANNER OF VOTING.

**64.** At least twenty members of the Assembly shall be necessary to constitute a quorum for the transaction of business, and for that purpose the Speaker shall be counted. R.S.O. 1927, c. 12, s. 64.

Quorum.

**65.** Questions arising in the Assembly shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal the Speaker shall have a vote. R.S.O. 1927, c. 12, s. 65.

Voting.

## MONEY VOTES.

**66.** The Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part to any purpose which has not been first recommended by a message of the Lieutenant-Governor to the Assembly during the session in which the vote, resolution, address or bill is proposed. R.S.O. 1927, c. 12, s. 66; 1937, c. 37, s. 4.

Condition precedent to appropriations.

## ESTATE BILLS.

**67.** The judges of the Supreme Court shall be *ex officio* commissioners to report under the Rules and Orders of the Assembly, in respect of estate bills. R.S.O. 1927, c. 12, s. 67.

Commissioners on estate bills.

## OATHS TO WITNESSES.

**68.** Any standing or select committee of the Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine witnesses upon oath, and for that purpose the chairman or any member of the committee may administer the oath (Form 2). R.S.O. 1927, c. 12, s. 68.

Power of committees to examine on oath.



Affidavits.

**69.** Where witnesses are not required to be orally examined, an affirmation, declaration, or affidavit, which is required to be made or taken by or according to any rule or order of the Assembly, or by the direction of any committee, and in respect of any matter or thing pending or proceeding before the committee, may be made and taken before the Clerk of the Assembly, the clerk of the committee, or a commissioner for taking affidavits or a justice of the peace. R.S.O. 1927, c. 12, s. 69.

#### INDEMNITY TO MEMBERS.

Allowance to members for attendance at any session.

**70.**—(1) In every session of the Assembly there shall be allowed to each member attending the session \$20 for each day's attendance, if the session does not extend beyond thirty days, and if the session extends beyond thirty days, then there shall be payable to each member attending such session a sessional allowance of \$2,000. R.S.O. 1927, c. 12, s. 70.

Chairman of Committee of the Whole.

(2) To the member elected as chairman of the Committee of the Whole House there shall be payable in every session, in addition to the amount set out in subsection 1, an additional amount of \$1,000. 1937, c. 37, s. 5 (1).

Deductions for non-attendance.

What shall be reckoned as days of attendance.

**71.**—(1) A deduction at the rate of \$15 per day shall be made from his sessional allowance for every day on which a member does not attend sittings of the Assembly, or of some committee thereof in case the Assembly sits on such days, but each day during the session, after the first on which the member attends on which there has been no sittings of the Assembly, in consequence of its having adjourned over the day or on which the member is travelling *bona fide* on his way to the place where the session is held, for the purpose of attending a sittings of the Assembly or on which the member was in the place where the session was held, or within ten miles thereof, but was prevented by sickness from attending the sittings shall be reckoned as a day of attendance at the session.

When deduction not to be made for absence.

(2) No deduction shall be made for or on account of the necessary absence of a member, so long as such absence does not exceed six days during the session. R.S.O. 1927, c. 12, s. 71.

How the compensation payable.

**72.** The compensation may be paid from time to time as the member becomes entitled to it, to the extent of \$20 for each day's attendance, and the remainder shall be retained by the Clerk until the close of the session, when the final payment shall be made. R.S.O. 1927, c. 12, s. 72.

**73.** If a person is from any cause a member of the Assembly for a part only of a session, then in case he is a member for upwards of thirty days during the session, he shall be entitled to the sessional allowance, subject to the deduction for non-attendance as a member and also to a deduction of \$20 for each day of the session before he was elected or after he ceased to be a member; but if he is a member for thirty days or less, he shall be entitled only to \$20 for each day's attendance at the session whatever be the length thereof. R.S.O. 1927, c. 12, s. 73.

Where a person is a member for only part of the session.

**74.** There shall also be allowed to every member ten cents for every mile of the distance between his place of residence and Toronto, reckoning the distance going and coming according to the shortest mail route, which distance shall be determined and certified by the Speaker. R.S.O. 1927, c. 12, s. 74.

Allowance for mileage.

**75.** The sum due to every member at the close of a session shall be paid to him, on his taking and signing before the Clerk or accountant or a justice of the peace, an oath, to be kept by the Clerk, stating the number of days' attendance and the mileage according to the shortest mail route, as determined and certified by the Speaker, and the amount of the allowance, after deducting the number of days, if any, which are to be deducted under any preceding section; and the oath may be according to Form 3. R.S.O. 1927, c. 12, s. 75.

Final payment at the close of session.

**76.** To the member recognized by the Speaker as occupying the position of Leader of the Opposition in the Legislative Assembly, there shall be payable over and above the sessional indemnity mentioned in section 70, an additional sessional indemnity of \$3,000.

Special indemnity to Leader of Opposition.

**77.** Where a committee of the Assembly is authorized to meet during the interval between two sessions of the Assembly there shall be payable to every member of the committee the sum of \$15 per diem for every day upon which he is absent from his home in going to, attending at, and returning from meetings of the committee, the said allowance to be payable upon the certificate of the chairman of the committee out of such moneys as may be appropriated for miscellaneous expenses of Legislation. R.S.O. 1927, c. 12, s. 77.

Allowance to members of committee sitting between sessions.

## SCHEDULE OF FORMS.

## FORM 1.

## OATH OF MEMBER ELECT.

I, \_\_\_\_\_ of the \_\_\_\_\_, elected to represent the Electoral District of \_\_\_\_\_ (as the case may be), in the Legislative Assembly of the Province of Ontario, make oath and say:—That, except in respect of my personal expenses, I have not made, before, during or since my election, any payment, advance, loan, or deposit for the purposes of the election last held for the said Electoral District otherwise than through my official agent appointed under *The Election Act*; and that I will not hereafter make any payment, loan or deposit in respect of the said election, except through my official agent appointed under the said Act. I further say that I have not been guilty of any corrupt practice in respect of my election.

Sworn before me, this

day of \_\_\_\_\_, 19

Clerk of the Legislative Assembly.

R.S.O. 1927, c. 12, Form 1.

## FORM 2.

## OATH TO BE ADMINISTERED.

The evidence you shall give to this Committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth; So help you God.

R.S.O. 1927, c. 12, Form 2.

## FORM 3.

## OATH TO OBTAIN SESSIONAL ALLOWANCE.

I, A. B., a member of the Legislative Assembly, make oath and say that I reside at \_\_\_\_\_, in \_\_\_\_\_, which is distant by the shortest mail route \_\_\_\_\_ miles, as determined by the Speaker, from Toronto, where the session which began on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, was held.

That the first day during the said session on which I was present was the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

That on the said day, and on each day of the said session, after the said day, on which there was a sittings of the Assembly, I attended such sittings, or a sittings of some committee thereof, (a) except only on \_\_\_\_\_ days, (b) on \_\_\_\_\_, of which I was travelling bona fide on my way to the place where the session is held for the purpose of attending a sittings of the Assembly, and (c) on \_\_\_\_\_ of which I was prevented by sickness from attending,

though I was then present at the said City of Toronto, or within ten miles thereof (d).

(Signature)

A. B.

Sworn before me at , the day of , 19 .

L. K. C.

Clerk (or Accountant) of the Legislative Assembly,  
or Justice of the Peace for the  
of (as the case may be).

*If the member attended a sittings of the Assembly or of some committee on every sitting day after the first on which he so attended, omit the words from (a) to (d); and if his non-attendance was not on any day occasioned by travelling as therein set out or by sickness, omit the words from (b) to (d).*

*If the person making the declaration became or ceased to be a member after the commencement of the session, vary the form so as to state correctly the facts upon which the sum due to the member is to be calculated.*

R.S.O. 1927, c. 12, Form 3.

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## SECTION IV.

### EXECUTIVE GOVERNMENT AND PUBLIC OFFICERS.

#### CHAPTER 13.

##### The Lieutenant-Governor's Act.

Powers  
vested in  
Lieutenant-  
Governor.

**1.** In matters within the jurisdiction of this Legislature all powers, authorities and functions which, in respect of like matters, were vested in or exercisable by the Governors or Lieutenant-Governors of the several provinces now forming part of the Dominion of Canada or any of the said provinces, under commissions, instructions or otherwise, at or before the passing of *The British North America Act, 1867*, are, and shall be, so far as this Legislature has power thus to enact, vested in and exercisable by the Lieutenant-Governor or Administrator for the time being of Ontario, in the name of His Majesty or otherwise as the case may require subject always to the Royal Prerogative as heretofore. R.S.O. 1927, c. 13, s. 1.

Power to  
remit  
sentences.

**2.** Section 1 shall be deemed to include the power of commuting and remitting sentences for offences against the laws of Ontario, or offences over which the legislative authority of Ontario extends. R.S.O. 1927, c. 13, s. 2.

Lieutenant-  
Governor to  
be a corpora-  
tion sole.

**3.** The Lieutenant-Governor and his successors shall be a corporation sole; and all bonds, recognizances, and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors, by his or their name of office as such; and the same shall not in any case go to or vest in the personal representatives of the Lieutenant-Governor, during whose government the same were so taken. R.S.O. 1927, c. 13, s. 3.

Power to  
appoint  
deputies for  
certain pur-  
poses.

**4.** The Lieutenant-Governor may, with the advice and consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his deputy or deputies for Ontario or any part or parts thereof, for the purpose of executing marriage licenses, money warrants and commissions under any Act of this Legislature. R.S.O. 1927, c. 13, s. 4.



## CHAPTER 14.

## The Executive Council Act.

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time appoints, and all Executive Councillors so appointed shall be Ministers of the Crown, and shall rank among themselves in the order of their appointments respectively. R.S.O. 1927, c. 14, s. 1.

Executive  
Council—  
how com-  
posed.

2. The Lieutenant-Governor may appoint under the Great Seal from among the Ministers of the Crown the following Ministers to hold office during pleasure: a President of the Council, an Attorney-General, a Secretary and Registrar, a Treasurer, a Minister of Lands and Forests, a Minister of Mines, a Minister of Agriculture, a Minister of Public Works, a Minister of Highways, a Minister of Education, a Minister of Labour, a Minister of Health, a Minister of Public Welfare, a Minister of Municipal Affairs, and such other Ministers as he may see fit, and may by Order-in-Council prescribe their duties and the duties of the several departments over which they preside, and of the officers and clerks thereof. 1930, c. 5, s. 2; 1937, c. 72, s. 21.

Heads of  
department.

3.—(1) The annual salary of every Minister having charge of a Department shall be \$10,000. 1930, c. 5, s. 3.

Salaries.

(2) The Member of the Executive Council holding the recognized position of First Minister shall receive in addition, \$4,000 per annum.

Additional  
for the first  
Minister.

(3) The said salaries shall be chargeable upon and payable yearly and *pro rata* for any period less than a year out of the Consolidated Revenue Fund. R.S.O. 1927, c. 14, s. 3 (2, 3).

How  
chargeable  
and payable.

4.—(1) Notwithstanding anything contained in *The Legislative Assembly Act* any of the powers and duties which have been heretofore or may be hereafter assigned by law to any Minister of the Crown may from time to time by Order-in-Council be assigned and transferred either for a limited period or otherwise to any other Minister by name or otherwise.

Transfer of  
duties from  
one member  
of Council to  
another.

Rev. Stat.,  
c. 12.

Minister  
acting upon  
request.

(2) On request made to him by the Minister to whom any duties and powers have been assigned as herein provided, any other Minister may for a period not exceeding one week perform such duties and exercise such powers in place of the Minister making the request and in such case no Order-in-Council shall be required.

Minister  
without  
portfolio  
may act.

(3) Where any such duties and powers are assigned to a Minister without Portfolio he shall not thereby become ineligible as a member of the Assembly or to sit or vote therein. R.S.O. 1927, c. 14, s. 4.

Execution of  
contracts  
with Crown.

5. No deed or contract in respect of any matter under the control or direction of a Minister shall be binding on His Majesty or be deemed to be the act of such Minister unless the same is signed by him or is approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 14, s. 5.

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## CHAPTER 15.

### The Public Service Act.

#### GENERAL.

#### INTERPRETATION.

#### 1. In this Act,—

Interpreta-  
tion.

- (a) "Civil servant" shall mean an officer, clerk or servant employed in a department; "Civil servant."
- (b) "Commissioner" shall mean Civil Service Commissioner for Ontario; "Commis-  
sioner."
- (c) "Department" shall mean a department, branch office or service in the civil service at the seat of Government at Toronto; "Depart-  
ment."
- (d) "Minister" shall mean the member of the Executive Council for the time being presiding over a department or charged with administration of any Act or regulation respecting an office in the public service; "Minister."
- (e) "Public service" shall include every department and every office, clerkship or service at the nomination of the Crown, as representing the Province of Ontario, wherever held or performed. R.S.O. 1927, c. 16, s. 1. "Public  
Service."

#### PART I.

#### PUBLIC SERVICE.

**2.** Saving always the legal rights and privileges of the Assembly as respects the appointment or removal of its officers, clerks or servants, this Part shall apply to the permanent officers, clerks and servants of the Assembly, and for the purposes hereof such officers, clerks and servants shall constitute a department. R.S.O. 1927, c. 16, s. 2. Application  
of Act to  
officers,  
etc., of  
Assembly.

**3.—(1)** For the purposes of this Part, the offices of the courts, and the offices of the Master of Titles, Surrogate Clerk, and of the Inspector of Legal Offices and the Stamp Office Application  
to offices  
at Osgoode  
Hall.

at Osgoode Hall, shall be deemed to be a department, and shall be presided over by the Attorney-General for Ontario, and the person having for the time being the conduct of the business of any such office shall have and perform with respect thereto the powers and duties under this Part of a deputy head of a department.

Saving as to authority of courts.

(2) Nothing herein shall impair or interfere with the authority or control of the courts and judges over their officers. R.S.O. 1927, c. 16, s. 3.

#### DISQUALIFICATION.

Members of Dominion Parliament not to hold permanent office at salary.

4. A member of the Parliament of Canada shall not be appointed to or hold any permanent office or employment in the service of the Government of Ontario at the nomination of the Crown, to which a salary or other emolument in lieu of salary is attached, but this shall not apply to the offices of justice of the peace, coroner or notary public or to any like office. R.S.O. 1927, c. 16, s. 4.

#### APPOINTMENTS, DIRECTION AND CONTROL.

Appointments by Lieutenant-Governor in Council.

5. Subject to the provisions of Part II the Lieutenant-Governor in Council upon the recommendation of the Minister may appoint such officers, clerks and servants in any department as may be deemed requisite or as may be provided for by statute or by any regulation made thereunder. R.S.O. 1927, c. 16, s. 5.

Regulations.

6.—(1) The Lieutenant-Governor in Council may make regulations,

Classification.

(a) for the classification of the civil servants in any department and prescribing the duties to be performed by them;

Salary.

(b) for fixing the maximum and minimum salary or other remuneration to be paid to civil servants in any department;

Qualifications.

(c) for determining the qualifications, knowledge, skill or experience to be required before appointment to any office, clerkship or service in a department;

Hours.

(d) for fixing the hours of service in any department;

Conduct.

(e) for regulating the conduct of civil servants and for imposing penalties by fine, suspension or otherwise

for breach of such regulations, or for any misconduct or negligence on the part of civil servants; R.S.O. 1927, c. 16, s. 6 (1).

- (f) For the fixing of leave of absence on account of illness <sup>Leave of absence.</sup> or other cause. 1931, c. 6, s. 2.

(2) Every regulation made under this section shall be laid <sup>To be laid before Assembly.</sup> before the Assembly forthwith, if the Assembly is then in session, and if the Assembly is not then in session, within one week after the commencement of the next season. R.S.O. 1927, c. 16, s. 6 (2).

7. Upon the report of the Minister that it is necessary that <sup>Appointment where no salary voted.</sup> an officer, clerk or servant shall be permanently employed in a department, but that no salary or other remuneration has been voted by the Assembly for that purpose, the Lieutenant-Governor in Council may make the appointment and may fix the salary or remuneration to be paid and the same shall be payable out of the Consolidated Revenue Fund until the end of the then next session of this Legislature. R.S.O. 1927, c. 16, s. 7.

#### TEMPORARY CLERKS.

8. Whenever it is deemed necessary that an officer, clerk <sup>Temporary employment in public service.</sup> or servant shall be employed temporarily in a department, the Minister may make such appointment for a period not exceeding three months; but any such officer, clerk or servant may under an Order-in-Council be employed for a longer period not exceeding six months, and may be paid out of the moneys voted for the contingencies of the department. At the end of six months, or any lesser period, such officer, clerk or servant may be reappointed by Order-in-Council for a further period not exceeding six months, and so on from time to time. R.S.O. 1927, c. 16, s. 8.

#### DEPUTY HEADS OF DEPARTMENTS.

9.—(1) The Lieutenant-Governor in Council may designate <sup>Deputy heads.</sup> the official who shall be the deputy head in any department of the Government, and fix his duties and powers. 1931, c. 6, s. 3.

(2) Where the deputy head of a department is absent <sup>Temporary absence or vacancy.</sup> or there is a vacancy in the office, the powers and duties of the deputy head shall be exercised and performed by such officer or clerk in the department as may be designated by the Minister. R.S.O. 1927, c. 16, s. 9 (2).



Powers and duties.

(3) The deputy head of a department shall have the general control of his department and shall have such other powers and perform such duties as may be assigned to him by the Lieutenant-Governor in Council and shall oversee and direct the other officers, clerks and servants of the department and in the absence of the Minister and during such absence may suspend from employment any such officer, clerk or servant who refuses or neglects to obey his directions as such deputy. R.S.O. 1927, c. 16, s. 9 (6).

No compensation for extra services.

**10.** No allowance or compensation shall be made for any extra service whatsoever which any civil servant or any officer, clerk or servant employed in the public service may be required to perform in the department to which he belongs, but nothing herein shall prevent the payment of remuneration for special services in addition to his ordinary duties rendered or performed by any civil servant or any officer, clerk or servant employed in the public service by the written direction or at the written request of the Minister. R.S.O. 1927, c. 16, s. 10.

Statutory salaries not affected.

**11.** Nothing in this Part shall affect any salary or emolument granted or fixed by any statute. R.S.O. 1927, c. 16, s. 11.

Aid of clerks from other departments.

**12.** Whenever the staff of any department cannot adequately perform the duties required in an emergency, the deputy head of the department may require from the deputy head of any other department the temporary service of any clerk or servant who is not then actively engaged in his own department, but no additional remuneration shall be paid therefor. R.S.O. 1927, c. 16, s. 12.

Ministers to report as to clerks.

**13.** Every Minister shall furnish to the Lieutenant-Governor in Council at such times as he may direct, reports upon the conduct and efficiency of the civil servants employed in his department. R.S.O. 1927, c. 16, s. 13.

#### ATTACHMENT OF SALARIES OF CIVIL SERVANTS.

Creditor may garnish money owing by Crown to civil servant.

**14.—(1)** Where a debt or money demand, not being strictly a claim for damages, is due and owing to any person from a civil servant, either on a judgment or otherwise, and a debt is due and owing from the Crown, to such civil servant the person to whom the first mentioned debt or money demand is so due and owing (hereinafter designated the creditor) may recover in the manner herein provided any debt due or owing to the civil servant from the Crown, or sufficient thereof to satisfy the claim of the creditor, subject always to the rights of other parties to the debt owing from the Crown.

(2) The creditor may serve a notice personally on the Treasurer or on the Assistant Treasurer, or on some other officer appointed by the Treasurer to receive the same, specifying the nature of the claim, and showing the name and residence of the civil servant and the nature of his occupation, and the service of such notice upon the Treasurer, Assistant Treasurer or other officer shall have the effect, subject to the rights of other persons, of attaching and binding in the hands of the Treasurer all debts then owing from the Crown to the civil servant, or sufficient thereof to satisfy the claim of the creditor, to the same extent as a garnishing or attach ng order issued by or from a court of law.

Notice to  
Treasurer.

Effect of  
notice.

(3) After service of the notice the Treasurer shall, when the creditor's claim is a judgment, retain all moneys then owing from the Crown to the civil servant, or sufficient thereof to satisfy the judgment, and a payment into court or to the creditor, or where an execution is in the hands of a sheriff or bailiff, to the sheriff or bailiff, of the amount due to the civil servant, or of the amount due and costs unsatisfied on the judgment, shall be a discharge to that extent of the debt owing from the Crown to the employee.

Treasurer  
to retain  
money due.

(4) Where judgment has not been recovered for the claim, the creditor, besides serving the notice provided by subsection 2, shall also serve a copy of such notice on the civil servant, together with a memorandum requiring the civil servant if he disputes the claim to file a disputing note with the Treasurer within ten days from the date of service.

Dispute  
notice.

(5) If no disputing note is filed, the Treasurer, on being satisfied that notice has been served on the civil servant, shall retain any moneys due and owing to such civil servant and pay the same or a sufficient part thereof to satisfy the creditor's claim, subject to the provisions of subsection 8.

Where no  
dispute  
notice  
filed.

(6) If a note disputing the claim is filed, the Treasurer may with the consent of all parties determine whether any and what sum is due by the civil servant to the creditor upon the claim, or he may require the creditor to bring an action therefor against the civil servant, and in such case he shall retain any moneys due and owing to the civil servant or sufficient thereof to pay any claim and costs which may be recovered in the action to abide the result of the action provided such action is promptly prosecuted to judgment.

Where  
dispute  
note filed.

(7) There shall be kept in the Treasury department an attachment book, in which shall be entered the names of parties, the dates of service of notices, the statement of claim,

Treasurer  
to keep  
attachment  
book.

and the amount, if any, due and owing to the civil servant at the time of service.

Limit of application of section.

(8) This section shall not apply to any debt contracted before the 17th day of January, 1898, nor where the amount due to the civil servant does not exceed \$25, nor if such amount exceeds \$25 beyond the amount of such excess, nor to any debt not contracted for board or lodging which does not exceed \$25.

Attorney-General's fiat.

(9) Nothing in this section shall authorize the bringing or maintaining of a suit against the Crown or the Treasurer without the fiat of the Attorney-General first had and obtained in accordance with the present practice. R.S.O. 1927, c. 16, s. 14.

"Civil servants," meaning of.

(10) In this section "civil servants" shall mean and include both permanent and temporary employees of any department of the Government whether engaged at the seat of government at Toronto or elsewhere. 1932, c. 5, s. 2.

#### OATHS OF OFFICE.

Oaths of allegiance and office.

**15.**—(1) Every civil servant shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council the Oath of Allegiance and a Solemn Declaration in the following form:

"I (A. B.) solemnly and sincerely declare that I will faithfully and honestly fulfil the duties which devolve upon me as and that I will not ask or receive any money, service or recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I shall have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Lieutenant-Governor in Council."

Register of oaths.

(2) The Clerk of the Executive Council shall keep a register of such oaths. R.S.O. 1927, c. 16, s. 15.

#### SAVING AS TO OTHER ACTS.

Act subject to other provisions.

**16.** This Part shall be subject to the provisions of any Act relating to any department or public office under the Government. R.S.O. 1927, c. 16, s. 18.

## PART II.

## THE CIVIL SERVICE COMMISSIONER.

**17.**—(1) The Lieutenant-Governor in Council may appoint an officer to be known as the Civil Service Commissioner for Ontario. Appointment of Commissioner.

(2) The Lieutenant-Governor in Council may appoint such clerks and other assistants in the office of the Commissioner as may be deemed necessary and may authorize the employment by the Commissioner of expert and special assistance from time to time as may be deemed necessary in the discharge of the duties of the Commissioner. Staff and expert assistance.

(3) The salary of the Commissioner and the salaries and other remuneration of the clerks and other persons employed by the Commissioner shall be fixed by the Lieutenant-Governor in Council and shall be payable out of the Consolidated Revenue Fund at such times and in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 16, s. 19. Salaries and expenses.

**18.** It shall be the duty of the Commissioner,—

Duties and powers of Commissioner.

- (a) to investigate the conditions of the various departments and to make such recommendations as he may deem proper for the improvement of the organization and business methods therein; Investigation and report.
- (b) to report to the Lieutenant-Governor in Council such changes as he may deem proper in any department with a view to systematizing the work of the department and the grading and classification of the civil servants employed therein; Report on changes in departments.
- (c) to make such general recommendations as he may deem proper with regard to the scale of salaries or other remuneration for civil servants employed in any department; Salaries.
- (d) to frame rules for the conduct and discipline of civil servants in their respective offices and for their promotion; Discipline and promotion.
- (e) to report to the Lieutenant-Governor when directed so to do upon any scheme providing for superannuation of civil servants or the payment of any allowance upon retirement from the public service; Superannuation.



Co-ordina-  
tion and  
reorganiza-  
tion.

- (f) to recommend such action as will promote the co-ordination of work in the different departments, and the reduction or reorganization of the staff of any department with a view to greater economy and efficiency in administration;

Application  
and  
nomina-  
tions.

- (g) to examine and report upon every nomination for appointment to any position in a department;

Depart-  
mental in-  
quiries.

- (h) to inquire and report upon any other matter affecting the administrative methods of any department or the conduct of the civil servants therein whenever instructed by the Lieutenant-Governor in Council so to do;

Generally.

- (i) to hold such inquiries and investigate such suggestions, complaints and recommendations with respect to the departments or to any of them or as to any changes in the statutes or regulations affecting the same, as the Lieutenant-Governor in Council may from time to time direct. R.S.O. 1927, c. 16, s. 20.

Report on  
rules, regu-  
lations, etc.

**19.** Whenever required by the Lieutenant-Governor in Council so to do, the Commissioner shall prepare or examine and report upon any rule or regulation, or proposed rule or regulation to be made by any board, commission or officer, or by a member of the Executive Council, or by the Treasury Board, or by the Lieutenant-Governor in Council under Part I or under any Act relating to the public service or to any department, branch, office or service under the Crown in Ontario. R.S.O. 1927, c. 16, s. 25.

Crown  
may act  
on recom-  
mendation  
of Commis-  
sioner.

**20.** Where the Commissioner, after investigating the condition of any department, reports thereon and recommends the retirement of any officer, clerk or servant or the reorganization of the department, the Lieutenant-Governor in Council may, by order, give effect to such recommendation. R.S.O. 1927, c. 16, s. 26.

Annual  
report.

**21.** It shall be the duty of the Commissioner to prepare annually and present to the Lieutenant-Governor in Council on or before the 1st day of November, a report upon the performance of the duties of his office during the preceding fiscal year, and the report shall be laid before the Assembly at the next ensuing session of the Legislature. R.S.O. 1927, c. 16, s. 27.

Application  
of this Part.

**22.** This Part shall apply to all departments, branches and offices in the public service. R.S.O. 1927, c. 16, s. 28; 1931, c. 6, s. 7.



## PART III.

## SUPERANNUATION OF EMPLOYEES.

**23.** In this Part,—Interpreta-  
tion.

- (a) "Board" shall mean board appointed under the authority of this Act to administer the same; R.S.O. 1927, c. 16, s. 29, cl. (a);
- (b) "Employee" shall mean and include every person employed in the service of the Crown as representing the Province of Ontario who receives a stated annual salary with or without perquisites or emoluments in addition thereto, and the Provincial Auditor, the officers, clerks, and servants in the Audit Office and the officers and employees of the Assembly, but shall not include any person appointed after the time when he may serve for a period of fifteen years before reaching the age of seventy years, or any person employed in a part-time capacity or appointed for a temporary purpose or for a stated period or employed temporarily in any work or service for the Government of Ontario; R.S.O. 1927, c. 16, s. 29, cl. (b); 1933, c. 52, s. 2; 1937, c. 72, s. 52 (1);
- (c) "Fund" shall mean Public Service Superannuation Fund;
- (d) "Government" shall mean the Lieutenant-Governor of Ontario acting upon the advice of the Executive Council;
- (e) "Regulations" shall mean regulations made under the authority of this Act. R.S.O. 1927, c. 16, s. 29, cls. (c-e).

**24.**—(1) There shall be established a fund to be known as the Public Service Superannuation Fund and an account shall be opened in the books of the Treasurer of Ontario to be known as the Public Service Superannuation Fund Account. R.S.O. 1927, c. 16, s. 30.

Establish-  
ment of  
retirement  
fund and  
account.

(2) The Treasurer of Ontario shall be the custodian of the fund.

Treasurer  
to be  
custodian  
of Fund.

(3) The fund, less such amount or amounts as shall be necessary to meet the current expenditures, shall by resolution of the Board be invested by the Treasurer of Ontario in bonds of the Province of Ontario or other securities guaranteed by the Province of Ontario, and such securities shall be set apart and ear-marked for the fund.

Investment  
of Fund.

Records.

(4) Records shall be kept by the Department of the Provincial Treasurer showing a separate account for each contributor to the fund and for each beneficiary.

Audit.

(5) The fund and the accounts of the fund shall be audited and the securities examined and checked by the Provincial Auditor or by such other auditor or auditors and at such times as the Lieutenant-Governor in Council shall direct, and such auditor or auditors shall make an annual report and prepare and furnish such other statements to the Treasurer of Ontario and to the Board as may be requested from time to time. 1931, c. 6, s. 8.

Fund,—  
how  
constituted.

**25.** The fund shall be formed of contributions from the salaries of the employees and payments and credits to be made thereto on behalf of the Government as hereinafter provided. R.S.O. 1927, c. 16, s. 31.

Who shall  
be entitled  
to super-  
annuation  
allowance.

**26.—(1)** Subject to the provisions of this Part and to the regulations there shall be granted a yearly superannuation allowance to,—

- (a) Every employee who having attained the age of seventy years, and having served at least ten years continuously in the public service retires therefrom; R.S.O. 1927, c. 16, s. 32, cl. (a);
- (b) Every employee who, having served at least ten years continuously in the public service, is retired therefrom on account of ill-health or physical incapacity and who is declared by the Lieutenant-Governor in Council upon the report of the Civil Service Commissioner to be entitled to superannuation;
  - (i) The Board shall have power to review from time to time the case of an employee who is superannuated on account of ill-health or physical incapacity and, where such employee recovers, the Board shall report his case to the Government who may offer him further employment.
  - (ii) Where an employee, who has been superannuated on account of ill-health or physical incapacity, upon recovery is offered re-employment by the Government, but does not accept such re-employment, the Board may, on the approval of the Lieutenant-Governor in Council, discontinue the superannuation allowance granted to such employee. R.S.O. 1927, c. 16, s. 32, cl. (b), subcls. (i, ii); 1928, c. 5, s. 2 (1);

(c) Every employee who having attained the age of sixty years and having served at least twenty-five years continuously in the public service is retired therefrom by the Lieutenant-Governor in Council for any cause other than misconduct or improper behaviour on his part. 1928, c. 5, s. 2 (2).

(d) Every employee who desires to retire after attaining the age of sixty-five years, and who has served continuously in the public service for at least twenty-five years. 1933, c. 52, s. 3.

(2) There may also be granted from the Fund, to an employee whose services have been dispensed with, and who has served twenty-five years or more and has attained the age of forty-five years, or has served twenty years or more and has attained the age of fifty, or has served fifteen years or more and has attained the age of fifty-five, a compensation allowance based upon his average yearly salary during the last three years of his service, and which shall not exceed one-seventieth part of such annual salary, multiplied by the total number of years, and any fraction thereof, of continuous service; but no more than thirty years of service shall be reckoned, nor shall the yearly compensation allowance exceed \$1,500.

(3) Where an employee who has been granted an allowance before reaching the age of seventy is re-employed by the Government his allowance shall be suspended during the period of his re-employment, but such period of re-employment shall be counted in determining the allowance to which he is entitled at his final retirement.

(4) When a person receiving an allowance under subsection 2 attains the earliest age at which he would have been eligible for an allowance under clauses *a* and *c* of subsection 1, had he remained in the service, such allowance shall then be paid, but the period during which he is in receipt of an allowance under subsection 2 shall not be counted in determining his final allowance.

(5) The allowances to widows and children of persons who were in receipt of compensation allowances under subsection 2 shall be at the rate to which they would have been entitled had the employee died in the service. 1935, c. 58, s. 3.

Married employees required to carry life insurance.

**27.** Every male employee, if married at the date of his entering the service, or if married subsequently and before he has been for ten years in the service, shall furnish to the Board from time to time as required, a certificate that his life is insured in favour of his dependent or dependents being within the class of preferred beneficiaries within the meaning of *The Insurance Act* in some reliable insurance company for an amount of not less than \$2,000 and for a period of at least ten years from the date of his entering the service, and in default of his furnishing such certificate, the Board may insure the life of such employee and the cost of such insurance shall be deducted from his salary. R.S.O. 1927, c. 16, s. 33.

Death of employee; when allowance payable.

**28.** Where an employee who would have been entitled upon his retirement to the superannuation allowance, dies after having served for at least ten years continuously in the public service there shall be granted to his personal representatives or to a member of his family, a lump sum not exceeding one year's salary at the rate of the average yearly salary of such employee during the last three years of his service. R.S.O. 1927, c. 16, s. 34, *part*; 1933, c. 52, s. 4 (1).

(a) Or, in case such employee dies leaving a widow or infant children under the age of eighteen years, one-half of the superannuation allowance to which such employee would have been entitled had he been superannuated at the date of his death shall be paid to the widow for her life or during her widowhood, but if the wife of such employee dies before him, or where having survived him, she dies or marries again leaving infant children by him, such half superannuation allowance shall be paid to those children of such employee, if any, who shall not have attained the age of eighteen years, and until they do attain such age. R.S.O. 1927, c. 16, s. 34, cl. (a).

(b) Or, in case such employee dies leaving no children under the age of eighteen years, and his widow dies before receiving an amount equal to one year's salary of such employee at the rate of his average yearly salary during the last three years of his service, there shall be granted to his personal representatives or to a member of his family a lump sum equal to the remainder of such salary. 1933, c. 52, s. 4 (2).

Death before having served ten years.

**29.** Where an employee dies while in the public service before having served for ten years, there shall be granted to his personal representatives, or to a member of his family,



a lump sum not exceeding the total of the contributions made by such employee under this Part with interest at five per centum per annum. R.S.O. 1927, c. 16, s. 35.

**30.**—(1) Where an employee resigns or is dismissed from the public service, the sums which have been deducted from his salary under this Part shall be forthwith returned to him with interest at the rate of five per centum per annum on deductions made prior to the 18th day of April, 1933, up to the 1st day of May, 1933, and with interest at the rate of three per centum per annum on deductions after the 1st day of May, 1933, or on any deductions made after the 18th day of April, 1933. 1933, c. 52, s. 5 (1). Where employee resigns or is dismissed.

(2) Where an employee leaving the public service is indebted to the Province payment of the amount owing shall be deducted from any refund to which he may be entitled. 1931, c. 6, s. 9, *part*; 1933, c. 52, s. 5 (2). When employee indebted to province.

(3) Where, owing to change in percentage of deduction, an employee has contributed more than the proper assessment to the fund, or where other adjustment is necessary, the Board shall have power to make the proper refund. 1931, c. 6, s. 9, *part*. Refund owing to change in percentage of deduction.

(4) Where an employee retires from the public service on account of ill-health or physical incapacity, or his office or position is abolished before the time a superannuation allowance could be granted to him, the sums which have been deducted from his salary under this Part shall forthwith be returned to him with interest at the rate of five per centum per annum. Retirement of employee or when position abolished.

(5) Where an employee who is in the public service on the 18th day of April, 1933, is retired on account of having reached the superannuation age before the time when the superannuation allowance could be granted to him, the sums which have been deducted from his salary under this Part shall be forthwith returned to him with interest at the rate of five per centum per annum. 1933, c. 52, s. 5 (3). Employee not entitled to allowance to receive contributions.

**31.** Where in addition to a cash salary an employee enjoys emoluments, perquisites or privileges incidental to his office, the Board shall fix the value of such emoluments, perquisites or privileges and the same shall be added to, and for the purposes of this Part shall be deemed to form part of his salary, and the deductions required by this Part shall be made upon that basis from the cash salary received by him. R.S.O. 1927, c. 16, s. 37. Valuing perquisites, etc., for purposes of Act.



Deductions  
from salaries  
for fund.

**32.** There shall be deducted from the salary of every employee monthly, an amount equal to four per centum of his salary, and the amount so deducted shall be placed to the credit of the Fund in the Public Service Superannuation Fund Account. 1936, c. 56, s. 11 (1).

Government  
equivalent  
contribution.

**33.** Whenever any amount is credited to the fund by way of deductions from the salaries of the employees an equivalent amount shall be credited to the fund as the contribution of the Government thereto. R.S.O. 1927, c. 16, s. 39; 1937, c. 72, s. 52 (3).

Interest  
fund.

**34.** There shall be credited to the fund by the Government interest at the rate of five per centum per annum compounded annually and such interest shall be made up as of the close of each fiscal year upon any balance at the credit of the fund as the contribution of employees or of the Government at the commencement of the fiscal year and all sums contributed by the employees and by the Government during the year. R.S.O. 1927, c. 16, s. 40.

Deficiencies  
in fund,—  
how made  
up.

**35.** Until the contributions by the employees and the Government are sufficient to equal the benefits provided for and payable to employees under this Part and thereafter whenever the amount at the credit of the Fund is insufficient to meet the payments required on account of benefits to employees provided by this Part, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1927, c. 16, s. 41.

Cost of  
administration.

**36.** The costs of the administration of this Part shall be borne by the Province of Ontario and shall be payable out of such moneys as may be appropriated from time to time by the Legislature for that purpose. R.S.O. 1927, c. 16, s. 42.

How super-  
annuation  
to be  
calculated.

**37.** The superannuation allowance payable to any employee shall be calculated upon the average yearly salary of the employee during the last three years of his service and shall not exceed one-fiftieth part of such annual salary multiplied by the total number of full years of service and any fraction of a year of continuous service, and including service previous to appointment by Order-in-Council where such service has been continuous and the employee has contributed as provided by subsections 3 and 4 of section 38 of Chapter 16 of the Revised Statutes of Ontario, 1927, but no more than thirty years of service shall be reckoned nor shall the yearly superannuation allowance exceed in any case the sum of \$2,000, nor in the case of an employee superannuated under

section 38 of this Act shall such superannuation allowance be less than \$360, but in no case shall the annual allowance exceed the final annual salary of the employee.

**38.** Subject to the provisions of sections 47 and 48, and notwithstanding anything contained in any Act relating to any department, branch, or office in the public service or in any other Act of this Legislature, every employee, no matter by what tenure he holds office, shall cease to hold office upon attaining the age of seventy years. R.S.O. 1927, c. 16, s. 44 (1); 1931, c. 6, s. 10 (1). Compulsory retirement at seventy years of age.

**39.** Where an employee who is granted a superannuation allowance under this Part dies before having received an amount equal to one year's salary at the rate of his average yearly salary during the last three years of his service there shall be paid to the personal representatives of such person, or to a member of his family, as the Board may direct, a sum equal to the remainder of such amount, or where such employee dies leaving a widow, or child under the age of eighteen years, one-half of the superannuation allowance to which the deceased was entitled shall be continued to the widow of such employee for her life or during her widowhood, but if such employee is a widower or if his wife having survived him, remarries, such one-half superannuation allowance shall be paid to the children of such employee, if any, who have not attained the age of eighteen years and until they have attained that age, or in case both the employee and his widow die leaving no children of such employee under the age of eighteen years before receiving an amount equal to one year's salary of such employee at the rate of his average yearly salary during the last three years of his service, there shall be granted to his personal representatives or to a member of his family a lump sum equal to the remainder of such salary. Death of superannuated employee before receiving one year's allowance.

- (a) Nothing in this section shall apply to a widow under fifty years of age, of an employee to whom she was married after he reached the age of sixty years or to a widow where she was married to an employee after the date of his superannuation, or to the children of such widow. R.S.O. 1927, c. 16, s. 45; 1928, c. 5, s. 3; 1933, c. 52, s. 7.

**40.** An employee who was in the service of the Government on the 15th day of June, 1920, and who is retired on account of having reached the age of retirement after having been at least ten years in the service, shall receive annually as a Employees over age on 15th June, 1920, after ten years service.

superannuation allowance at least one-half of the salary which he was receiving immediately preceding his superannuation, but such allowance shall in no case exceed annually the sum of \$2,000. R.S.O. 1927, c. 16, s. 47.

Manner of payment.

**41.** The superannuation allowance payable to any employee under this Part or to his widow or infant children shall be paid in monthly instalments in the manner hereinafter provided. R.S.O. 1927, c. 16, s. 48.

Interest of employee not liable to taxation, attachment, etc.

Rev. Stat., c. 25.

**42.** The interest of any employee in the fund under this Part or in any retiring allowance or pension payable out of the fund shall be exempt from provincial and municipal taxes except the tax imposed under *The Income Tax Act* (Ontario), and shall not be subject to garnishment or attachment or seizure or any legal process and shall be unassignable. R.S.O. 1927, c. 16, s. 49, and 1936, c. 56, s. 12.

Payment of allowance when employee is incapable.

**43.** Where a person to whom an allowance is payable under this Act is, in the opinion of the Board, incapable of managing his affairs, the Board shall have power to pay such allowance to his committee, or, if there be no committee, to a member of his family. R.S.O. 1927, c. 16, s. 50.

Administration of Part III.

**44.** This Part shall be administered by a board to be known as the Public Service Superannuation Board, which shall consist of three members to be appointed by the Lieutenant-Governor in Council and one of the members so appointed shall be a representative of and employed in the Ontario Civil Service. 1932, c. 5, s. 3.

Board to report on superannuation.

**45.** No employee shall be entitled to receive any payment on account of superannuation allowance until the Board has reported that he is entitled thereto under the provisions of this Part. R.S.O. 1927, c. 16, s. 52.

Regulations by Board.

**46.** The Board, subject to the approval of the Lieutenant-Governor in Council, may make regulations,—

(a) providing for the proofs to be furnished before granting any allowance under this Part;

(b) generally for the better carrying out of the provisions of this Part. R.S.O. 1927, c. 16, s. 53.

Superannuation compulsory.

**47.** Superannuation shall be compulsory for every employee eligible therefor and to whom it is offered by the Government, and such offer shall in no manner be considered as a censure upon an employee. R.S.O. 1927, c. 16, s. 54.

**48.** Where a question arises as to the application of this Part to any officer, clerk or servant in the employment of the Government or as to any class of employees, the same shall be determined by the Lieutenant-Governor in Council. Regulations by Government.  
R.S.O. 1927, c. 16, s. 55.

**49.—(1)** The payments and credits required to be made by the Government by way of contributions to the fund and for interest and the benefits payable under this Part to employees or their representatives, and the costs and expenses incurred in the administration of this Part shall be a charge upon and shall be payable out of the Consolidated Revenue Fund. Payments and credits out of Consolidated Revenue Fund.

**(2)** The payment of any benefit to an employee or his representatives under this Part, and the payment of the expenses incurred in the administration of the Fund shall be made upon a requisition in writing signed by the chairman of the Board and directing the issue of the cheque of the Treasurer of Ontario for the amount named in the requisition, and such direction shall be final and conclusive, and the cheque of the Treasurer of Ontario shall be issued for the amount stated in the requisition and the Auditor shall countersign the same, anything in *The Audit Act* to the contrary notwithstanding. How payments to be made. Rev. Stat., c. 24.  
R.S.O. 1927, c. 16, s. 56.

**50.** There shall be laid before the Legislative Assembly within one week after the commencement of each session a return showing,— Annual statement to Assembly.

- (a) the names of all employees who have retired from the public service, or who have died during the last preceding fiscal year;
- (b) the offices held by them or the nature of their employment respectively;
- (c) the amount of salary payable to each at the time of retirement or death;
- (d) the age of each at retirement;
- (e) the cause of retirement in the case of any one retiring before attaining the age of seventy years;
- (f) the amount of superannuation or other allowance granted in each case;
- (g) all regulations made under this Part. R.S.O. 1927, c. 16, s. 57.

**51.** An employee who is entitled to benefits from any other superannuation Act or fund to which the Government contributes shall not be eligible for benefits under this Part. Employees on other funds not to benefit.



But:

- (a) an employee who was on the 15th day of June, 1920, in receipt of benefits from any fund for superannuated teachers shall be entitled upon his retirement to receive from the fund the superannuation allowance provided by this Part less the amount of any pension payable to him as a superannuated teacher, and
- (b) an employee who was on the 15th day of June, 1920 a contributor to any such fund for superannuated teachers and who elected in writing before the 1st day of July, 1920, to become a contributor to and to share in the fund established under this Part shall cease to be a contributor to or to be entitled to the benefit of any such fund for superannuated teachers, and shall become subject to the provisions of this Part;
- (c) an employee who is a contributor to the Ontario Teachers' and Inspectors' Superannuation Fund may upon his retirement as a teacher or inspector and his appointment to another permanent position in the public service, become a contributor to the fund and be entitled to the benefits under this Part, credit for service dating, at the option of the employee, from either the time of his first entering the service or from the time of his appointment subsequent to his retirement as teacher or inspector, provided such service has been continuous. R.S.O. 1927, c. 16, s. 58.

Teachers  
and  
inspectors  
in public  
service.

**52.**—(1) Every person who is an employee by reason of his appointment as an inspector of schools or as a teacher and who is in the public service on the 24th day of May, 1937, and who is not at that time a contributor to the Fund, may elect by a written notice delivered to the secretary of the Board, within thirty days after he receives notice from the Secretary of the provisions of this subsection, to become a contributor to the Fund, and in every such case there shall be paid into the Fund the contributions required from him and from the Government under this Act, together with interest at the rate of four and three-quarters per centum, compounded annually, for the full period of his service as an inspector, or, in the case of a teacher, for the full period of his public service in the Province of Ontario; but in no case shall such amount be less than the accumulated contributions with interest at the rate of four and three-quarters per centum, made by and on behalf of such employee in the Teachers' and Inspectors' Superannuation Fund.



(2) Every person who becomes an employee after the 24th day of May, 1937, by reason of his appointment as an inspector or teacher, shall become a contributor to the Fund, and there shall be transferred into the Fund the accumulated contributions with interest at four and three-quarters per centum, made by and on behalf of such employee in the Teachers' and Inspectors' Superannuation Fund. Teachers and inspectors coming into public service.

(3) The credit of such employee shall commence in the case of an inspector from the date of his appointment as inspector, and in the case of a teacher from the date of his permanent appointment to the public service, but in no case shall the benefits paid to an employee who became such by reason of his appointment as an inspector or as a teacher be less than he would have received had he continued as a contributor under *The Teachers' and Inspectors' Superannuation Act*. 1937, c. 72, s. 52 (4). Commencement of credit. Rev. Stat., c. 366

**53.**—(1) This Part shall extend and apply to any person holding the office of sheriff of a county, city or district in Ontario whether such sheriff is paid by fees or salary, or partly by fees and partly by salary, and a sheriff shall be deemed to be an "employee" within the meaning of this Part, but any amount payable on account of superannuation allowances under this section granted to sheriffs who had attained the age of seventy years on the 1st day of July, 1922, or who shall attain the age of seventy years before the 1st day of November, 1930, shall be added to the contribution of the Government to the fund and shall be chargeable to the Consolidated Revenue Fund. R.S.O. 1927, c. 16, s. 60 (1). Sheriff to be deemed employee.

(2) The contribution to be made to the fund by a sheriff shall be the same percentage of his net income from fees and other emoluments and any salary or allowance paid to him by the Province for the fiscal year next preceding that in which the contribution is made, as the percentage to be deducted from the salary of an employee under section 32. Contribution to be made by sheriff.

(a) In this subsection "net income" shall have the same meaning as in *The Public Officers Fees Act*. R.S.O. 1927, c. 16, s. 60 (2); 1936, c. 56, s. 11 (2). Rev. Stat., c. 18.

(3) The Lieutenant-Governor in Council upon the recommendation of the Board may make regulations respecting the time and manner in which contributions to the said fund shall be made by sheriffs, and generally for the better carrying out of the provisions of this section. R.S.O. 1927, c. 16, s. 60 (3). Regulations.

**54.** The Lieutenant-Governor in Council, upon recommendation of the Board, may extend the operation of this Part to any other class of public officers employed in connec- Extending operation to other classes.

tion with the administration of justice whether such officers are paid by fees or salary or partly by fees and partly by salary, and upon the passing of any Order-in-Council under this section the provisions of section 53 shall *mutatis mutandis* apply to any class of officers named in the Order-in-Council. R.S.O. 1927, c. 16, s. 61.

Permanent  
staff of  
board or  
commission.

**55.** The Lieutenant-Governor in Council, upon the recommendation of the Board, may extend the operation of this Part to cover the permanent staff employed by any board or commission under the Government. R.S.O. 1927, c. 16, s. 62.

Return of  
contribu-  
tions to  
Superannua-  
tion Fund.

**56.** Where the salaries of members of a board or commission appointed by the Crown cease to be paid out of the Consolidated Revenue Fund or out of any sum appropriated for that purpose by the Legislature, any such member who has contributed to the Fund shall be entitled to the return of his contributions with interest. 1929, c. 7, s. 2.

Temporary  
employment  
after  
attaining  
age limit.

**57.—**(1) Nothing in this Act shall prevent a superannuate who has been retired on account of having attained the age of seventy years and who possesses expert, technical or professional knowledge which the Government desires to have at its disposal, from being retained temporarily, upon approval by the Lieutenant-Governor in Council, at a salary not greater than that received immediately prior to retirement, but such person shall cease to be an employee within the meaning of this Act and to be a contributor to the fund and his retiring allowance shall be deducted from the remuneration paid to him during such temporary employment. 1931, c. 6, s. 12.

Section not  
to apply to  
certain  
employees.

(2) This section shall not apply to any employee who had not attained the age of sixty-five years on the 18th day of April, 1933. 1933, c. 52, s. 8.

Refunds  
exempt from  
municipal  
income tax.

**58.** Money repaid to a civil servant upon his resigning or otherwise leaving the civil service, or to his widow, shall not be liable to assessment or taxation for municipal income tax. 1932, c. 5, s. 4.

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## CHAPTER 16.

## The Public Officers Act.

1. No person shall be employed in any public office in Ontario who is not a British subject by birth or naturalization, but nothing in this section shall prevent the employment of any person for a temporary purpose by the Government of Ontario or by any commission acting for or on behalf of the Crown, when in the opinion of the Government or of such commission such employment is in the public interest. R.S.O. 1927, c. 17, s. 1.

Public officer  
to be British  
subject.

Proviso.

## COMMISSIONS ON DEMISE OF THE CROWN.

2.—(1) It shall not be necessary, upon the demise of the Crown, to renew any commission, by virtue whereof any public officer or functionary in Ontario held his office or profession, during the previous reign, but a proclamation shall be issued by the Lieutenant-Governor, authorizing all persons in office who held commissions under the late Sovereign and all functionaries who exercised any profession by virtue of any such commissions, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed.

Commissions  
continued on  
demise of the  
Crown.

(2) The proclamation having been issued and oath taken, every public officer and functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being, and all acts and things *bona fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties and functions, between the time of the demise and the proclamation so to be issued, the oath of allegiance being always duly taken, shall be deemed to be legally done and valid accordingly. R.S.O. 1927, c. 17, s. 2.

Continuance  
in duty  
and validity  
of acts.

3. Nothing in section 2 shall prejudice or in anywise affect the rights or prerogatives of the Crown with respect to any

Saving as to  
rights of the  
Crown.

office or appointment derived or held by authority from the Crown, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. R.S.O. 1927, c. 17, s. 3.

#### OATHS OF ALLEGIANCE AND OFFICE, ETC.

What oath  
necessary.

Allegiance.

4. It shall not be necessary for any person appointed to any office in Ontario, or for any mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a barrister, notary public, or solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say:—

Form.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to His Majesty King George the Sixth, (*or the Reigning Sovereign for the time being,*) as lawful Sovereign of Great Britain, Ireland, and the Dominions beyond the seas, and that I will defend Him to the utmost of my power against all traitorous conspiracies or attempts whatever which may be made against His Person, Crown and Dignity and that I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which I may know to be against Him or any of them;—And all this I do swear without any equivocation, mental evasion or secret reservation; So help me God."

Oath of  
office.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R.S.O. 1927, c. 17, s. 4.

The said  
form of oath  
of allegiance  
and no other  
to be used  
in all cases.

5. Except where otherwise specially provided, the form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in Ontario, who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any statute of this Legislature, desires to take an oath of allegiance. R.S.O. 1927, c. 17, s. 5.

Who may  
administer  
oath of  
allegiance.

6. All magistrates and all other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of Ontario. R.S.O. 1927, c. 17 s. 6.

#### SECURITY OF PUBLIC OFFICERS.

Persons  
appointed to  
certain  
public offices  
to give  
security.

7.—(1) Security by or on behalf of every person appointed to any office or employment, or commission in the public service of Ontario, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt,



disbursement or expenditure of any public money under the Government of Ontario, and who by reason thereof is required to give security, shall be furnished within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), in such sum and in such manner as may be approved of by the Lieutenant-Governor in Council or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him and for his duly accounting for all public moneys entrusted to him or placed under his control.

(2) Where a deputy is appointed by any person holding an office, any security required by law and hereafter given on behalf of such person, shall extend to and include the acts and omissions of the deputy, whether appointed before or subsequent to the giving of the security.

Liability of sureties of public officer for acts of deputy.

(3) The liability of the sureties, and of the officer appointing the deputy, shall be the same as regards the performance of the duties of the office by the deputy, as in regard to the performance thereof by the person holding the office, and such liability shall extend to and cover all acts and omissions of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as may exist in regard to the security given by public officers.

Security to cover acts and omissions of deputy.

(4) The Lieutenant-Governor in Council may, notwithstanding the provisions of this section, require new security to be furnished by any deputy on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions as that required by law for the due performance of the duties of the officer whom the deputy represents. R.S.O. 1927, c. 17, s. 7.

Deputy may be required to furnish security.

8. The Lieutenant-Governor in Council may prescribe the form of the security required to be furnished under any statute by a public officer or by any class of public officers, and may authorize the Treasurer of Ontario to enter into agreements in His Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario for the furnishing of security for any public officer, or for public officers generally, or for any class or classes of public officers. R.S.O. 1927, c. 17, s. 8.

Regulations as to form of security.



Saving as to  
municipal  
or school  
treasurers.

**9.** Nothing in the preceding sections shall apply to any treasurer or other officer of a municipal or school corporation having the custody of moneys of such corporation. R.S.O. 1927, c. 17, s. 9.

Laying  
statement  
of securities  
before  
Assembly.

**10.** The Treasurer of Ontario shall cause to be prepared and laid before the Assembly, within fifteen days after the opening of every session thereof, a detailed statement of all securities furnished on behalf of public officers, and of any changes that have been made in reference to such securities since the last statement laid before the Assembly. R.S.O. 1927, c. 17, s. 10.

Effect of  
securities by  
public  
officers.

**11.** The security hereafter furnished on behalf of any public officer in pursuance of this or any other Act requiring security shall enure as well for the benefit of His Majesty as for that of the persons for whose benefit it is provided by the Act requiring the security or otherwise that it shall enure. R.S.O. 1927, c. 17, s. 11.

Limitation  
of actions  
against  
sureties of  
public  
officers.

**12.** Where any person, company or corporation is surety for a public officer, or for any person appointed to any office, employment or commission in the public service of Ontario, or to any office or employment of public trust, whether the suretyship is for the benefit of His Majesty or enures for the benefit of any person injured by the default or misconduct of the officer or other person, and an action is brought against the surety, no damages shall be recovered except as to matters and causes of action which have arisen within ten years next before the commencement of the action. R.S.O. 1927, c. 17, s. 12.

#### RETURNS OF FEES.

County court  
and division  
court clerks  
and  
registrars  
of surrogate  
court.

**13.** Every clerk of a county court, every registrar of a surrogate court and every clerk of a division court for a division embracing a city or part of a city, shall keep a separate book, in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, showing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on or before the 15th day of January in each year make up a statement under oath of such fees, charges and emoluments to and including the 31st day of December of the previous year and return the same to the Provincial Secretary. R.S.O. 1927, c. 17, s. 14.

Particulars  
in returns in  
by public  
officers.

**14.** Every public officer who is by this or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in his return the following particulars,—

- (a) the aggregate amount of all fees and emoluments earned by him during the preceding year by virtue of his office;
- (b) the aggregate amount of all fees and emoluments actually received by him during the preceding year by virtue of his office;
- (c) the actual amount of the disbursements during the same period in connection with his office, and such other particulars as the Lieutenant-Governor in Council may prescribe. R.S.O. 1927, c. 17, s. 15.

GENERAL.

**15.** Where a person who has been, but has ceased to be, a public officer, retains possession of any accounts, moneys, books, papers, matters or things which have been in his possession as such officer, a judge of the Supreme Court or the judge of any county or district court, upon application of the successor in the office of such person or of the Attorney-General or of some person by his authority, and on notice to the person affected, may order that such accounts, moneys, books, papers, matters and things be forthwith delivered to such successor in office or to such person as the judge may direct, and in default that such person be committed to the common gaol of the county or district in which he resides for such period as the judge may direct, or until he complies with the directions of the order, and may authorize the sheriff of any county or district in which the same may be found to forthwith seize and take such accounts, moneys, books, papers, matters and things, and deliver the same to the persons to whom they have been directed to be delivered. R.S.O. 1927, c. 17, s. 16.

**16.** Wherever by any general or special Act of this Legislature any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a judge of the Supreme Court, who shall have power to appoint some disinterested person to do or perform the act, matter or thing in question. R.S.O. 1927, c. 17, s. 17.

Procedure against person, who has ceased to be a public officer, for retaining moneys, books, etc.

Procedure when public officer interested in question before him.

## CHAPTER 17.

## The Sheriffs Act.

Appointment  
of sheriffs.

**1.** The Lieutenant-Governor in Council may, by a commission under the Great Seal, appoint a sheriff for each county and district. R.S.O. 1927, c. 18, s. 1.

Separate  
sheriffs for  
York and  
City of  
Toronto.

**2.**—(1) The Lieutenant-Governor in Council may, in like manner appoint one person to be sheriff of the County of York, and another to be sheriff of the City of Toronto.

Lieutenant-  
Governor in  
Council may  
define duties.

(2) Subject to the provisions of section 4 the Lieutenant-Governor in Council may define what duties with reference to courts held jointly for the City and County, including any duties to be performed under *The Jurors' Act*, shall be performed by the sheriffs of the City and County respectively.

Rev. Stat.,  
c. 108.

Act of one  
sheriff when  
not to be  
invalid.

(3) No act done by either of the said sheriffs shall be held unlawful or invalid on the ground that the same should have been done by the other. R.S.O. 1927, c. 18, s. 2.

Jurisdiction  
of sheriff of  
York in City  
of Toronto.

**3.** The sheriff of the County of York shall have no jurisdiction within the City of Toronto, save as provided by this Act. R.S.O. 1927, c. 18, s. 3.

Division of  
duties, with  
reference to  
courts—  
duties of  
sheriff of  
York.

**4.**—(1) The sheriff of the County of York shall perform the duties pertaining to the office of sheriff with reference to the following courts held in the City of Toronto, that is to say, the election courts, the non-jury sittings of the High Court, the County Court of the County of York, the Court of General Sessions of the Peace, and the County Judges' Criminal Court.

Duties of  
sheriff of  
Toronto.

(2) The sheriff of the City of Toronto shall perform the duties pertaining to the office of sheriff with reference to the Court of Appeal and to the jury sittings of the High Court in Toronto. R.S.O. 1927, c. 18, s. 4.

Fees and  
allowance in  
respect of  
services  
connected  
with courts.

**5.** The sheriff of the County of York in respect of the courts assigned to him shall be entitled to all fees and allowances payable to sheriff in respect of services connected with such courts, including the removal to the penitentiary of any

prisoners sentenced thereto by such courts, and the sheriff of the City of Toronto shall in like manner be entitled, in respect of the courts assigned to him, to the like fees and allowances for services connected with such courts. R.S.O. 1927, c. 18, s. 5.

6. So long as there is but one gaol for the City of Toronto and the County of York, the sheriff of the City of Toronto shall have control of the gaol. R.S.O. 1927, c. 18, s. 6. Control of gaol.

7. The sheriff of the County of York shall be entitled to the fees and allowances payable to sheriffs for services relating to prisoners and mentally incompetent persons committed from the County of York outside the City of Toronto who may be confined in such gaol, or relating to any returns required to be made to the Inspector of Prisons in respect of any such prisoners or mentally incompetent persons. R.S.O. 1927, c. 18, s. 7. Fees of sheriff of York in respect of persons committed to gaol.

8. The sheriff of the City of Toronto shall be entitled to the fees and allowances payable to sheriffs for services relating to the custody and control of the gaol, and of any city prisoners and mentally incompetent persons confined therein, and relating to any returns required to be made in respect of such gaol, or of any city prisoners or mentally incompetent persons confined therein. R.S.O. 1927, c. 18, s. 8. Fees of sheriff of Toronto in respect of persons committed to gaol.

9.—(1) When any part of the County of York is annexed to the City of Toronto, the sheriff of the County of York shall forthwith transmit to the sheriff of the City of Toronto a list of all writs of execution then in his hands not theretofore so transmitted, and shall in like manner transmit to the sheriff of the City of Toronto notice of the renewal of any such writ and of any subsequent or supplemental writ in the same cause or matter. Provisions as to executions, if further territory added to City of Toronto.

(2) If the sheriff of the City of Toronto, upon search being made in his office for executions against the property of any person, finds that there is no such execution, but that the name of such person is included in any list so transmitted to him by the sheriff of the County of York, he shall, upon request and without charge give a certificate stating that fact and that there is no such execution in his office. R.S.O. 1927, c. 18, s. 9. Duty of sheriff of Toronto.

10. Every sheriff, before he enters upon the duties of his office, shall take and subscribe the oath of allegiance prescribed by *The Public Officers Act*, and also the oath of office (Form 1), and shall not be required to take any other oath Oaths to be taken on appointment. Rev. Stat., c. 16.



except as hereinafter provided, and every such oath shall be filed in the office of the clerk of the peace. R.S.O. 1927, c. 18, s. 10.

Security.

11.—(1) The Lieutenant-Governor in Council may fix and determine the amount of the security to be furnished on behalf of every sheriff, but such amount shall not in any case be less than \$3,000.

How  
furnished.

Rev. Stat.,  
c. 16.

(2) The security shall be furnished in accordance with the provisions of *The Public Officers Act* and of any Order-in-Council made under the authority thereof, and within one month after the appointment of the sheriff and before he is sworn into office.

Revocation  
of appoint-  
ment on  
failure to  
furnish.

(3) In case the security is not furnished within the said period, or within such further period as the Lieutenant-Governor in Council may prescribe, the Lieutenant-Governor in Council may revoke the appointment of the sheriff, and his appointment and commission shall be void from and after the date of such revocation.

Changes in  
boundaries  
of bailiwick  
not to affect  
security.

(4) The security shall not be affected, nor shall the surety be released wholly or in part from the obligation assumed by reason of any change by legislative authority or otherwise in the boundaries of the county, city or district for which the sheriff was appointed, or by reason of any change in his duties.

Right to  
examine  
security.

(5) Any person may examine the security furnished on behalf of a sheriff, and shall be entitled to take a copy thereof.

Action  
against  
surety.

(6) His Majesty, or any person sustaining damage by reason of the default or misconduct of a sheriff, in addition to any right of action against the sheriff, may bring and maintain an action against the surety alone, and the action shall not be barred by reason of a prior recovery by the same person upon the same security or by reason of a judgment rendered for the defendant in a prior action upon the same security or by reason of any other action being then pending upon the security at the suit of the same plaintiff or any other person for any other distinct cause of action; provided that if the plaintiff has recovered damages in an action against the sheriff for any such default or misconduct and the amount recovered or any part thereof has been paid to the plaintiff, no action shall lie against the surety for the same cause, except for any amount so recovered and remaining unpaid.

Proviso.



(7) If upon the trial of an action brought against a surety it appears that the plaintiff is entitled to recover, and that the amount which the surety has paid or has become liable to pay under a judgment recovered against him is not equal to the full amount of the security, the court, after deducting from the full amount the sum which the surety has paid or become liable to pay as aforesaid, shall render judgment against the surety for any sum not exceeding the balance of the sum for which he became surety.

Judgment for balance of amount of security where surety has already been held liable.

(8) If the surety has actually and *bona fide* paid out of his own moneys or effects, or has become liable by virtue of a judgment recovered upon the security to pay an amount equal to the amount specified therein the security shall be deemed to be discharged and satisfied, and no other or further sum shall be recovered thereunder.

Discharge of surety on payment of full amount.

(9) The court in which an action on the security is pending, upon proof of such payment or liability, and at any stage of the action, may in a summary manner prevent the recovery against the surety of any further sum than that specified in the security.

Staying of further proceedings against surety.

(10) The security shall extend to the acts and omissions of the deputy of the sheriff, and, in case of a vacancy in the office of sheriff by death, resignation or otherwise, the security shall continue and be enforceable with respect to any act or omission of the deputy sheriff or of a sheriff *pro tempore* acting in pursuance of the provisions of this Act or of any deputy sheriff appointed by such sheriff *pro tempore*, in pursuance of the provisions of this Act. R.S.O. 1927, c. 18, s. 11.

Security to extend to acts, or omissions of deputy or sheriff *pro tem.*

**12.** A sheriff or deputy sheriff shall not, directly or indirectly, keep a shop, or trade or traffic in goods, wares, or merchandise, either by wholesale or retail. R.S.O. 1927, c. 18, s. 12.

Sheriff, etc., not to trade.

**13.** A sheriff, deputy sheriff, coroner, elisor, bailiff or constable shall not, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under legal process. R.S.O. 1927, c. 18, s. 13.

Sheriff, etc., not to purchase at sales under execution.

**14.** Every coroner, elisor, bailiff or constable entrusted with the execution of any writ, warrant or process who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the same may have issued, shall incur a penalty not exceeding

Misconduct of coroner, elisor, bailiff or constable.

Damages.

\$200, recoverable upon summary conviction, and shall be liable to imprisonment for a period not exceeding six months, and shall answer in damages to any person aggrieved by such misconduct or false return. R.S.O. 1927, c. 18, s. 14.

Liability of sheriff, etc., for escape.

**15.** If a debtor in execution escapes out of legal custody the sheriff, bailiff, or other person having the custody of such debtor, shall be liable only to an action for the damages sustained by the person at whose suit the debtor was taken or imprisoned, and shall not be liable to any other action in consequence of his escape. R.S.O. 1927, c. 18, s. 15.

Forfeiture of office for false return.

**16.** A sheriff who wilfully makes any false return to any process directed to him and placed in his hands for execution, unless by consent of both parties to the same, shall be liable to forfeit his office. R.S.O. 1927, c. 18, s. 16.

Action against sheriff where jury required.

**17.** Where an action is brought against a sheriff and a party thereto requires it to be tried by a jury the trial shall take place in such county or district as the court or a judge may direct. R.S.O. 1927, c. 18, s. 17.

Endorsement of receipt of process; non-service; re-delivery to plaintiff; costs of service.

**18.** Upon the delivery of a writ of summons at the office of a sheriff, to be served by him, he, or his deputy or clerk, shall endorse thereon the time when it was so delivered; and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff shall be entitled to receive back the same; and the sheriff, deputy sheriff or clerk shall endorse thereon the time of the delivery back; and the cost of the mileage and service of the writ by a literate person afterwards, if the person to be served was at any time during the ten days within the county or district, shall be allowed in the taxation of costs, as if the service had been by the sheriff or his officer. R.S.O. 1927, c. 18, s. 18.

Failure by sheriff to redeliver.

**19.** If the sheriff, being applied to, does not return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *praecipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the sheriff by the plaintiff. R.S.O. 1927, c. 18, s. 19.

Certificate as to executions.

**20.**—(1) Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a sheriff, the sheriff if so requested, shall include in one certificate any number of names in respect of which the certificates may be required in the same matter or investigation.

(2) The sheriff shall, in such certificate, include all certificates of proof of claims under *The Creditors Relief Act* which may be in his hands affecting lands.

Sheriff to include certificates under Rev. Stat., c. 126.

(3) The maximum fees payable to a sheriff in respect to such certificate shall be \$4. R.S.O. 1927, c. 18, s. 20.

Fees.

21. Subject to rules of court the sheriff shall, except upon legal holidays and during the long vacation, keep his office open every day from ten o'clock in the forenoon until four o'clock in the afternoon, and during all that time he or his deputy or some competent person shall be present to transact the business of the office; and during the long vacation the sheriff or his deputy or clerk shall be present in his office on every day, legal holidays excepted, from ten o'clock in the forenoon until one o'clock in the afternoon, provided that the sheriffs or their respective deputies or clerks, shall only be required to be present in their offices, for the transaction of business on every Saturday, not being a holiday, from ten o'clock in the forenoon until one o'clock in the afternoon, and provided also that when the office of a sheriff may be closed under this section at one o'clock in the afternoon, the sheriff or his deputy shall nevertheless, upon application made to him, transact all necessary and urgent business of his office in the same manner and to the same extent as on days upon which the office is required to be kept open until four o'clock. R.S.O. 1927, c. 18, s. 21.

Office hours of sheriffs.

In long vacation.

Proviso.

Urgent business.

22. The sheriff shall keep in his office the following books,

Certain books to be kept in sheriff's office.

- (a) Process books—in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution, received by him, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto;

Process books.

- (b) Execution books—in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution received by him, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto, or what was done thereunder or therewith;

Execution books.

Cash book.

- (c) A cash book—in which shall be entered all moneys received or paid by the sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied or collected under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in, or on account of which the same was received or paid;

Sheriff to keep an account of his fees.

- (d) A separate book—in which shall be entered from day to day all fees and emoluments received by him, by virtue of his office, and the several amounts disbursed by him, in carrying on the work of his office;

Other books,

- (e) Such other books as the Lieutenant-Governor in Council may require. R.S.O. 1927, c. 18, s. 23.

Return of fees to Inspector of Legal Offices.

- 23.** The sheriff shall, on or before the 15th day of January in every year, make, to the Inspector of Legal Offices, a return, under oath, of the aggregate amount of the fees and emoluments received by him, and of his disbursements, during the previous year, up to and inclusive of the 31st day of December. R.S.O. 1927, c. 18, s. 24.

Books to be paid for by county.

- 24.** The sheriff shall procure the books mentioned in section 22, and the cost thereof shall be paid by the city or county of which he is sheriff. R.S.O. 1927, c. 18, s. 25.

Sheriff to make quarterly returns of fines, etc.,

- 25.** The sheriff shall quarterly and within twenty days after the expiration of each quarterly period, transmit to the Inspector of Legal Offices a just, true and faithful account, verified upon oath, of all fines, penalties, and forfeitures which he has been required to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied, and he shall pay over to the proper officer or to the person lawfully entitled to receive the same, the several sums collected by him, within twenty days next after the period within which the same have been collected, and every sheriff neglecting or refusing to transmit such quarterly account, or to pay over any money so collected by him, within the time hereby prescribed, shall incur the like penalty and may be sued for the same in the same manner, as is provided with regard to justices of the peace neglecting or refusing to make the returns required by Part II of *The Justices of the Peace Act*. R.S.O. 1927, c. 18, s. 26; 1936, c. 56, s. 16.

and pay over moneys.

Penalty for neglect.

Rev. Stat., c. 132.



**26.** The sheriff shall give his attendance upon the judges for the maintenance of good order in His Majesty's courts, and for the doing and executing of all other things to the office of sheriff in such case appertaining. R.S.O. 1927, c. 18, s. 27.

Duty of sheriff as regards sittings of Courts.

#### SHERIFF TO APPOINT CONSTABLES AND CRIER.

**27.** The sheriff shall have the appointment and control of the court crier and of the constables at the sittings of the High Court, the county court, the court of general sessions of the peace; and other courts at which the attendance of the sheriff is required. R.S.O. 1927, c. 18, s. 28.

Appointment of court crier and constables.

#### PAYMENT OF SHERIFF'S COSTS

**28.** Where a sheriff is directed by the court to perform any service or do any act for which no fee is provided the sheriff may be allowed such fee as the court may think fit, and the same shall be payable as the court may direct. R.S.O. 1927, c. 18, s. 29.

Fees of sheriff when acting under order of judge.

**29.** The sheriff may at the time of the delivery demand from any person delivering a process or attachment to him to be executed, the fees allowed to him by the tariff for receiving the writ or order and for warrant and return, and a reasonable sum for mileage and the fees and mileage so paid shall, if afterwards collected from the debtor, be repaid by the sheriff to the person who issued such process or attachment. R.S.O. 1927, c. 18, s. 30.

Demanding fees on executions in advance.

**30.—(1)** After the expiration of one month from the service of his bill of costs, fees and expenses against a solicitor, the sheriff may serve the solicitor with a notice of an application to the Supreme Court or a judge thereof, or to a judge of a county or district court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice.

Sheriffs before action for fees may serve notice of application to the court for payment.

**(2)** On the return of the notice, the court or judge may, without reference, direct the payment to the sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the court or judge may order the bill and the demand thereon to be taxed by the proper officer, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff and the solicitor shall respectively pay what may be found due to the

Power of the court or judge and proceedings on return of the notice.



other upon the conclusion of the reference and taxation; and the court or judge making the reference shall restrain the bringing of any action pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any part thereof, in favour of either party, or may disallow any part thereof.

Execution  
for amount  
payable.

(3) At the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, the party entitled to payment may sue out a writ of execution for the amount ordered or certified to be payable to him. R.S.O. 1927, c. 18, s. 31.

#### DEATH, ETC., OF SHERIFF.

Deputy  
sheriff to  
continue  
office of  
sheriff in  
case of death  
or resigna-  
tion.

**31.**—(1) If the sheriff dies, or his resignation is accepted, or he is removed from office, the deputy sheriff shall continue the office of sheriff and execute the same and all things appertaining thereto in the name of the sheriff so dying, resigning or removed, until another sheriff has been appointed and sworn into office, and the deputy sheriff shall be answerable for the execution of the office during such interval as the sheriff would by law have been, if he had been living or had continued in office, and the security given to the sheriff by the deputy sheriff, and his pledges, as well as the security furnished on behalf of the sheriff, shall remain and be a security to His Majesty and to all persons whomsoever for the performance by the deputy sheriff of the duties of the office during such interval.

Obligation of  
sureties in  
such cases.

Where  
vacancies  
occur in  
office of  
sheriff and  
there is no  
deputy  
sheriff to act.

(2) If there is no deputy sheriff, the crown attorney for the city, county or district, as the case may be, shall be the sheriff *pro tempore* until another person is appointed sheriff, and the crown attorney on becoming sheriff *pro tempore* may appoint a deputy sheriff, and shall do and perform every other act, matter or thing necessary for the execution of the office.

Temporary  
officer to be  
responsible.

(3) During such interval the sheriff *pro tempore* shall be answerable for the execution of the office, as the sheriff would by law have been if he had been living or had continued in office, and any security given by or furnished on behalf of the sheriff since the 16th day of April, 1895, or hereafter furnished on behalf of a sheriff so afterwards dying, resigning or removed shall be a security to His Majesty, and to all persons whomsoever, for the performance of the duties of the

office by the sheriff *pro tempore* and his deputy. R.S.O. 1927, c. 18, s. 32.

**32.** All books, accounts, records, papers, writs, warrants, process, moneys, and other matters and things in the possession or under the control of a sheriff by virtue of, or appertaining to his office, shall be the property of His Majesty, and the same upon the death, resignation or removal from office of the sheriff shall, by the person in whose possession or control they may happen to be or may come, be immediately handed over to and shall be taken possession of by the successor in office of the sheriff, or such person as the Lieutenant-Governor in Council may appoint to receive the same. R.S.O. 1927, c. 18, s. 33.

All books, etc., to be the property of the Government.

**33.** No person, except the successor in office of the sheriff so dying, resigning or removed, or the person appointed by the Lieutenant-Governor in Council as aforesaid, shall take, have or hold such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things, and any person having or holding any of them shall forthwith on demand deliver over the same to the succeeding sheriff, or to the person appointed as aforesaid, and, upon default the offender shall incur a penalty of not less than \$10, nor more than \$50, besides costs, for every day's default, recoverable on summary conviction and shall also be liable to imprisonment for a period not exceeding three months, unless the penalty and costs are sooner paid. R.S.O. 1927, c. 18, s. 34.

No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment.

Penalty.

**34.—(1)** Upon the removal of a sheriff from office or upon his resignation and the appointment of his successor, the outgoing sheriff, or, in the event of the death of a sheriff, the deputy sheriff or sheriff *pro tempore* shall forthwith make out and deliver to the incoming sheriff a true and correct list and account, under his hand, of all prisoners in his custody, and of all writs and process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the incoming sheriff the matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming sheriff all such prisoners, writs and process, and all records, books and matters appertaining to the office of sheriff.

Proceedings on removal, etc., of sheriff. Duty of outgoing sheriff.

**(2)** The incoming sheriff shall thereupon sign and deliver a duplicate of the list and account to the outgoing sheriff, or to the deputy sheriff, or sheriff *pro tempore*, to whom the same shall be a good and sufficient discharge for all the prisoners therein mentioned, and transferred to the incoming sheriff, and from the further charge of the execution of the

Duty of incoming sheriff.

writs and process mentioned therein, without any writ of discharge or other writ whatsoever, and the incoming sheriff shall thereupon stand and be fully and effectually charged with the prisoners, and with the execution and care of the writs and process mentioned in the list and account.

Penalty.

(3) If the outgoing sheriff, or the deputy sheriff or the sheriff *pro tempore* refuses or neglects to make out, sign and deliver the list and account, and to hand over the writs and process in manner aforesaid, he shall be liable to any person aggrieved for the damages and costs sustained by such neglect or refusal. R.S.O. 1927, c. 18, s. 35.

Sheriffs re-signing, etc., may examine and inspect books, etc.

**35.** A sheriff, after resigning or being removed or in case of the death of a sheriff, his heirs, executors or administrators, shall, at all times, have the right, free of charge, to have access to, and to search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things which were in his possession before his death, resignation or removal, and which, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding sheriff, or the then sheriff of the city, county or district. R.S.O. 1927, c. 18, s. 36.

Conveyances in case of death, etc., of sheriff who has sold lands.

**36.** In case of the death, resignation or removal from office of a sheriff, or of a deputy sheriff while there is no sheriff, or of a sheriff *pro tempore*, after he has made a sale of lands, but before he has made the deed of conveyance of the same to the purchaser, and whether the sale was under an execution or for arrears of taxes the deed of conveyance shall be made to the purchaser by the sheriff, or by the deputy sheriff who is in office acting as sheriff, or by the sheriff *pro tempore*, at the time when the deed of conveyance is made. R.S.O. 1927, c. 18, s. 37.

Continuation of actions after death, etc., of sheriff.

**37.** In case of the death, resignation or removal from office of a sheriff after action brought by him as sheriff, the action may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff in his official capacity shall enure. R.S.O. 1927, c. 18, s. 38.

Fees for attendance on non-jury sittings of county court.

**38.** For attending the sittings of the county court for trials without jury the following fees shall be payable,

(a) to the sheriff, \$5 per diem;

(b) to the crier, \$3 per diem;

and the same shall be chargeable and shall be paid out of the Consolidated Revenue Fund. R.S.O. 1927, c. 18, s. 39; 1930, c. 21, s. 1.

[As to protection of sheriff from damages for acts done by virtue of his office, see *The Public Authorities Protection Act.* <sup>Rev. Stat., c. 135.</sup>]

Remuneration of sheriffs, see *The Public Officers' Fees Act*, *Rev. Stat.*, c. 18.

Superannuation of sheriffs, see *The Public Service Act*, *Rev. Stat.*, c. 15, s. 53.]

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FORM 1.

OATH OF OFFICE.

I, A. B., of \_\_\_\_\_, in the County (or District) of, \_\_\_\_\_ Esquire, having been appointed Sheriff of \_\_\_\_\_ swear that I will well, truly and faithfully perform and execute all the duties required of me by law, appertaining to the office of sheriff, so long as I continue therein, and that I have not given or promised directly or indirectly, or authorized any person to give or promise any money, gratuity or reward whatsoever for procuring the said office for me.

A. B.

Sworn before me at \_\_\_\_\_, in the County }  
of \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ }  
C.D.,

A Commissioner, etc.

R.S.O. 1927, c. 16, Form 1.

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## CHAPTER 18.

## The Public Officers' Fees Act.

## INTERPRETATION.

Interpreta-  
tion of  
"proper  
officer."

1. "Proper officer" shall mean the inspector appointed under any Statute, having supervision over the office in question or any person designated by the Lieutenant-Governor in Council. R.S.O. 1927, c. 19, s. 1.

## OFFICER TO PAY PERCENTAGE OF FEES TO CROWN.

Percentage  
of fees  
payable to  
Province.

2.—(1) Every officer to whom this Act applies, paid by fees or other emoluments and not by salary, only, shall pay to the Treasurer of Ontario a percentage of the fees and emoluments earned by him during the calendar year as provided by this Act and by any regulation made thereunder.

Apportion-  
ment  
where more  
than one  
officer in  
any year.

(2) When more than one person has held any office in any calendar year, each shall pay a proportionate part based upon his net income and the time he has held office. R.S.O. 1927, c. 19, s. 2.

## RETURNS.

Returns  
to be made  
on or before  
15th  
January.

3.—(1) On or before the 15th day of January in each year every officer to whom this Act applies shall transmit to the proper officer a return, under oath, of all fees and emoluments, including his salary, if any, earned in respect of his office, whether actually received or not, and also of the disbursements of his office during the calendar year ending on the 31st December previous to such return, and shall with such return transmit by marked cheque payable to the Treasurer of Ontario the percentage payable to the Government under this Act.

When ceas-  
ing to hold  
office.

(2) When any person ceases to hold office during any calendar year he shall make a return and remit a cheque for the due proportion of the percentage within thirty days from the time he ceases to hold office.

Where officer  
dies.

(3) Upon the death of any person holding office his representatives shall make a return within thirty days from the date of death and pay the due proportion of the percentage.



(4) When so required by the Attorney-General any officer shall make at any time a special return and shall forthwith pay over the due proportion of the percentage as of the date of such return. R.S.O. 1927, c. 19, s. 3.

Attorney-General  
may require  
at any time.

[See also *The Public Officers Act, Rev. Stat., c. 16, ss. 13, 14.*]

#### PERCENTAGES BASED ON NET INCOME.

4.—(1) In this Act “net income” shall mean the excess of all fees and emoluments earned during the calendar year by an officer, by virtue of all his offices, after deducting such disbursements incident to the business of the office as may be allowed by the proper officer including the salaries of clerks and other employees.

“Net  
income”—  
meaning of.

(2) No allowance shall be made for any salary to any clerk or other employee unless and until the proper officer shall have certified to the necessity for his employment and the reasonableness of the salary paid.

Allowances  
for salary  
to be  
approved.

(3) This section shall apply to all persons holding the following offices,

Application  
of section.

Crown attorney;

clerk of the peace;

sheriff;

local registrar of the Supreme Court;

deputy registrar;

clerk of the county or district court;

registrar of the surrogate court,

and any other officer designated by the Lieutenant-Governor in Council. R.S.O. 1927, c. 19, s. 4.

5. Every Crown attorney, whether he is or is not the clerk of the peace, and every clerk of the peace, shall be entitled to retain to his own use in each year his net income up to \$4,000, but shall pay to the Treasurer of Ontario fifty per centum of the excess over that sum. R.S.O. 1927, c. 19, s. 5; 1929, c. 9, s. 2.

Crown  
attorney.

Sheriff.

**6.** Every sheriff shall be entitled to retain to his own use in each year his net income up to \$6,500, but shall pay to the Treasurer of Ontario ninety per centum of the excess over that sum provided that the provisions of this section shall not apply to any sheriff appointed after the 28th day of March, 1929. R.S.O. 1927, c. 19, s. 6; 1929, c. 9, s. 3.

Supreme Court, county court and surrogate court fees.

**7.**—(1) Every local registrar of the Supreme Court, deputy registrar, county or district court clerk and registrar of the surrogate court, whether holding one or more of the above offices, and every sheriff shall be entitled to retain to his own use in each year his net income up to \$3,000.

Percentages payable on net income.

(2) On the net income of each year over \$3,000, he shall pay to the Treasurer of Ontario the following percentages,—

- (a) on the excess over \$3,000 up to \$3,500, 20 per centum;
  - (b) on the excess over \$3,500 up to \$6,000, 50 per centum;
  - (c) on the excess over \$6,000, 90 per centum.
- 1929, c. 9, s. 4 (1).

Application of subs. 1 and 2.

(3) Subsections 1 and 2 shall not apply in the case of a sheriff who was in office on the 28th day of March, 1929. 1929, c. 9, s. 4 (2).

#### PERCENTAGE BASED ON GROSS INCOME.

Division Court Clerk.

**8.**—(1) Every division court clerk shall be entitled to retain to his own use in each year all the fees and emoluments earned by him in that year up to \$3,000. R.S.O. 1927, c. 19, s. 8 (1); 1929, c. 9, s. 5 (1).

Scale of percentages payable to Province.

(2) Of the fees and emoluments earned by any division court clerk in each year he shall pay to the Treasurer of Ontario the following percentages,—

- (a) on the excess over \$3,000 up to \$3,500, twenty per centum thereof;
- (b) on the excess over \$3,500 up to \$6,000, thirty per centum thereof;
- (c) on the excess over \$6,000 up to \$10,000, forty per centum thereof;
- (d) on the excess over \$10,000, seventy-five per centum thereof. R.S.O. 1927, c. 19, s. 8 (2); 1929, c. 9, s. 5 (2).

(3) Every division court bailiff shall be entitled to retain to his own use in each year all the fees and emoluments earned by him in that year up to \$4,000. Division Court Bailiffs.

(4) Of all the fees and emoluments earned by any division court bailiff in each year he shall pay to the Treasurer of Ontario the following percentages,— Scale of percentages payable to Province.

(a) on the excess over \$4,000 up to \$10,000, ten per centum thereof;

(b) on the excess over \$10,000, twenty per centum thereof. R.S.O. 1927, c. 19, s. 8 (3, 4).

#### PAYMENTS TO FORM PART OF CONSOLIDATED REVENUE FUND.

9. The money paid to the Treasurer of Ontario shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 19, s. 9. Application of moneys received by the Province.

#### PAYMENTS TO SUPPLEMENT EARNINGS OF OFFICERS IN PROVISIONAL JUDICIAL DISTRICTS.

10. The Lieutenant-Governor in Council may direct the payment out of the Consolidated Revenue Fund to the sheriff and other officers of every provisional judicial district of such several sums of money by way of salary or otherwise, and in addition to the fees which are received by such sheriff and other officers as may be thought reasonable for the services performed by such officers. R.S.O. 1927, c. 19, s. 10. Salaries of sheriffs in district.

#### REGULATION.

11. The Lieutenant-Governor in Council may make rules and regulations for the management of the offices of all public officers and may confer upon any inspector such powers as may be deemed necessary for the carrying out of the provisions of this Act and of the Acts under which the said officers are appointed or under which they are required to discharge their duties. R.S.O. 1927, c. 19, s. 11. Rules and regulations for management of offices.

12. Where it appears by a return to the Lieutenant-Governor or to any department of the Government that in any year a sheriff, local registrar of the Supreme Court, deputy registrar, county or district court clerk, and registrar of the surrogate court, whether holding one or more of the above offices, has derived from the fees, emoluments and salary, Minimum salary for certain officers.

if any, of his office, after deducting necessary disbursements, an income which does not exceed \$1,800, there may, on the report of the Inspector of Legal Offices, be paid to such officer out of the Consolidated Revenue Fund an amount sufficient to make up the income for the year to \$1,800, if the Lieutenant-Governor in Council so directs. 1929, c. 9, s. 6.

Alteration of percentages and provisions *re* income.

**13.**—(1) The Lieutenant-Governor in Council may from time to time amend or repeal the amount of percentages payable under the provisions of this Act by any officer to whom this Act applies, and the amount of net or gross income that any such officer under this Act is entitled to retain to his own use, and every such amendment or repeal shall have the same force and effect as if enacted by this Legislature.

Alterations of fees under Ontario Statutes.

(2) The Lieutenant-Governor in Council may from time to time amend or repeal any fees payable under the provisions of any Act of this Legislature to any sheriff, crown attorney, clerk of the peace or any officer within the provisions of this Act, and every such amendment or repeal shall have the same force and effect as if enacted by this Legislature. 1933, c. 59, s. 1.

#### COMPULSORY RETIREMENT OF OFFICERS.

Compulsory retirement of officers.

**14.** An officer, other than a sheriff, to whom this Act applies shall cease to hold office upon attaining the age of eighty years and the appointment of his successor. 1931, c. 23, s. 1.

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## CHAPTER 19.

## The Public Inquiries Act.

1. Whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario, or the conduct of any part of the public business thereof, or of the administration of justice therein, and such inquiry is not regulated by any special law, he may, by commission appoint a person or persons to conduct such inquiry, and may confer the power of summoning any person and requiring him to give evidence on oath, and to produce such documents and things as the commissioner or commissioners deem requisite for the full investigation of the matters into which they are appointed to examine. R.S.O. 1927, c. 20, s. 1.

Appoint-  
ment of  
commission.

May confer  
right to  
take evi-  
dence on  
oath.

2. The commissioner shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any court in civil cases. R.S.O. 1927, c. 20, s. 2.

Compelling  
attendance  
of witnesses..

3.—(1) A commission may be issued directing an inquiry into matters connected with elections to the Assembly and any alleged attempt to corrupt a candidate at any such election or a member of the Assembly after his election.

Inquiry as  
to election.

(2) Such inquiry may be directed notwithstanding that the person charged may be liable to criminal prosecution or that criminal proceedings have been commenced or concluded.

Not affected  
by liability  
to prosecu-  
tion.

(3) A commission shall not issue under this section nor shall an inquiry proceed under a commission already issued where a petition has been presented under *The Controverted Elections Act* with respect to the election until the proceedings thereon have terminated, nor shall a commission issue during a session of the Legislature without the assent of the Assembly.

Not to  
proceed when  
petition  
pending.

Rev. Stat.,  
c. 11.

Nor during  
session unless  
assented to  
by Assembly.

(4) The Assembly, upon the evidence taken under the commission being submitted, may take, under *The Legislative Assembly Act*, or under any other authority belonging

Power to  
take action  
on evidence.

Rev. Stat.,  
c. 12.



to the Assembly, such action as may be deemed proper, as fully as if such evidence had been given at the Bar of the Assembly.

Circumstances under which no action to be taken.

(5) No such action shall be taken against any person so charged founded upon evidence given by any witness unless it appears that he had an opportunity of appearing before the commissioner and cross-examining the witness either at the time that he was examined in chief or subsequently, and that he had also an opportunity of calling witnesses on his own behalf. R.S.O. 1927, c. 20, s. 3.

Revoking or changing commission.

4. The Lieutenant-Governor in Council may revoke, modify or enlarge the scope of any commission. R.S.O. 1927, c. 20, s. 4.

Stated case for court of appeal.

5.—(1) Where the validity of the commission or the jurisdiction of a commissioner or the validity of any decision, order, direction, or other act of a commissioner is called into question by any person affected, the commissioner upon the request of such person, shall state a case in writing to the Court of Appeal, setting forth the material facts and the decision of such court thereon shall be final and binding.

Order directing stated case.

(2) If the commissioner refuses to state a case any person affected may apply to the Court of Appeal for an order directing the commissioner to state a case.

Proceedings stayed until case determined.

(3) Pending the decision of the stated case no further proceedings shall be taken by the commissioner.

Action, injunction, etc., not to lie against commissioner.

(4) No action shall be brought or other proceeding taken with respect to anything done or sought to be done by the commissioner or to restrain or interfere with, or otherwise direct or affect the conduct of any such commissioner. R. S. O. 1927, c. 20, s. 5.

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## CHAPTER 20.

## The Official Notices Publication Act.

1.—(1) Unless some other mode of publication is required by law, the following notices shall be published in the *Ontario Gazette*, Certain notices to be published in Ontario Gazette.

(a) all proclamations issued by the Lieutenant-Governor or under the authority of the Lieutenant-Governor in Council, and all official notices, Orders-in-Council, regulations, advertisements and documents relating to Ontario or matters under the control of this Legislature and requiring publication; R.S.C. 1927, c. 162, s. 29.

(b) all advertisements, notices and publications which are required to be given by the Crown or by any department of the Government or by a sheriff or by any municipal authority or by any officer or person whomsoever.

(2) If in any Act of the late Province of Upper Canada or of the late Province of Canada, in force in Ontario, and being within the authority of the Legislature of Ontario, any notice is directed to be given in the *Upper Canada Gazette* or in the *Canada Gazette*, the same shall be given in the *Ontario Gazette*. Notices published under Acts of Upper Canada, or Canada. R.S.O. 1927, c. 21, s. 1.

2. Where sheriffs' advertisements or other legal or official advertisements (except advertisements of which the whole expense is payable by a municipal corporation), are required to be published in a newspaper other than the *Ontario Gazette*, they shall be published in such newspaper as the Lieutenant-Governor in Council may direct. Publication of legal and official advertisements. R.S.O. 1927, c. 21, s. 2.

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## SECTION V.

### PUBLIC DEPARTMENTS, REVENUE AND PROPERTY.

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#### 1. *REVENUE AND FINANCE.*

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#### CHAPTER 21.

#### The Consolidated Revenue Fund Act.

Sources of  
the Fund.

**1.** All special funds and the income and revenue therefrom, and all public moneys and revenues over which this Legislature has the power of appropriation, shall form one fund, to be called the "Consolidated Revenue Fund," to be appropriated for the public service of Ontario, in the manner and subject to the charges hereinafter mentioned. R.S.O. 1927, c. 22, s. 1.

Permanent  
charges.

**2.** The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management, and receipt thereof, subject to review and audit in the manner directed by any Act of this Legislature. R.S.O. 1927, c. 22, s. 2.

Investment  
of surplus.

**3.** The Lieutenant-Governor in Council may, in his discretion, invest any surplus of the Consolidated Revenue Fund not required for the public service, in the debentures or other public securities of the Dominion of Canada, or of any of the provinces thereof, or of the United Kingdom or any of its colonies, and may sell and dispose of the same. R.S.O. 1927, c. 22, s. 3.

Vesting of  
securities,  
etc., in  
Treasurer  
of Ontario  
and his  
successors.

**4.—(1)** Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer of Ontario, by virtue of his office, the security, obligation, debenture or covenant, and any right of action in respect thereto, and all the estate right or interest of the Treasurer in respect thereof, upon the death, resignation or removal from office of the Treasurer, shall, subject to the same trusts as the same were respectively subject to, vest

in the succeeding Treasurer, and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer.

(2) A security, obligation, debenture, covenant or an interest in real or personal estate, effects and property may be proceeded on in the name of, or assigned, transferred or discharged by, any member of the Executive Council of Ontario, acting under the authority of *The Executive Council Act*. Realizing on securities.  
Rev. Stat. c. 14.

(3) This section shall apply to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer, by virtue or on account of his office, and shall transfer all the interest, rights and estate of the former Treasurer to the Treasurer for the time being to be vested in him by virtue of his office and subject to the provisions of this Act. R.S.O. 1927, c. 22, s. 4. Application of section.

5. If any sum of the public moneys is by an Act appropriated for any purpose, or directed by the judgment of any court or the award of arbitrators or other lawful authority to be paid by the Lieutenant-Governor, and no other provision is made respecting it, such sum shall be payable under warrant of the Lieutenant-Governor, directed to the Treasurer of Ontario, out of the Consolidated Revenue Fund, and all persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer, as the Lieutenant-Governor may direct. R.S.O. 1927, c. 22, s. 5. How public moneys to be paid.  
Accounting for same.

6.—(1) The Treasurer of Ontario may accept from any person gifts or bequests for the permanent endowment of any charitable or educational object in Ontario, and may invest the same in such securities as the Lieutenant-Governor in Council may direct. Treasurer authorized to accept certain gifts and bequests.

(2) The Treasurer of Ontario shall pay interest upon such gifts or bequests to such persons in such manner and under such conditions as the Lieutenant-Governor in Council may direct for the purpose of, and according to such bequests, at a rate not exceeding four per centum per annum in the case of a charitable object, and at a rate not exceeding five per centum per annum in the case of an educational object, and the same shall be a charge upon and payable out of the Consolidated Revenue Fund. R.S.O. 1927, c. 22, s. 6. Application of income.

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## CHAPTER 22.

## The Provincial Loans Act.

Creating  
permanent  
provincial  
stock.

**1.**—(1) The Lieutenant-Governor in Council may create a permanent provincial stock, which shall be known as "Ontario Government Stock," and shall be personal property, and the stock, and the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund.

Regulations  
as to stock.

(2) The stock shall be subject to such regulations as to the inscription, registration, transfer, management and redemption thereof as the Lieutenant-Governor in Council may make.

Time of  
redemption  
of govern-  
ment stock.

(3) The Lieutenant-Governor in Council may at the time of the issue of such stock fix the date at which it shall be redeemed. R.S.O. 1927, c. 23, s. 1.

Regulations  
as to the  
debt and  
payment of  
interest.

**2.** The Lieutenant-Governor in Council may make such regulations as he deems necessary for the management of the public debt and the payment of the interest thereon, and may, subject to the provisions of section 3 provide for the creation and management of a sinking fund, or other means of securing the repayment of any loan raised by the authority of the Legislature; and may appoint one or more fiscal agents in London, England, or elsewhere, and agree with them as to the rate of compensation to be allowed them for negotiating loans, and for paying the interest of the debt, and may pay the sums necessary to provide the interest, the sinking fund, or other means aforesaid, and such compensation out of the Consolidated Revenue Fund. R.S.O. 1927, c. 23, s. 2.

Fiscal  
agents, etc.

Raising  
loans, etc.,  
authorized  
by Legis-  
lature.

**3.**—(1) Where in any Act authority is given to the Lieutenant-Governor in Council to raise, by way of loan, any sum of money, then, unless there is some provision to the contrary in the Act by which the authority is given, such sum shall, in the discretion of the Lieutenant-Governor in Council, be raised in one of the following ways, or partly in one and partly in another or others thereof, that is to say,—

By issue of  
debentures.

(a) by the issue and sale of debentures of Ontario, which shall be in such form, for such separate sums, and at such rate of interest, and the principal and



interest whereof shall be made payable at such periods and places as the Lieutenant-Governor in Council deems expedient, and subject to such regulations, including regulations as to inscription, registration and transfer as he may make, and such principal and interest shall be charged on and paid out of the Consolidated Revenue Fund;

- (b) by the issue and sale of Ontario Government stock, By issue of Ontario Government stock. bearing such rate of interest as is deemed expedient, payable half-yearly, and the principal and interest whereof shall be charged on and paid out of the Consolidated Revenue Fund;

- (c) by the granting of terminable annuities charged on By grant of terminable annuities. and to be paid out of the Consolidated Revenue Fund, on terms in accordance with what the Lieutenant-Governor in Council may deem to be the most approved English tables, and based on a rate of interest not exceeding four per centum per annum, and subject to such regulations as the Lieutenant-Governor in Council may make;

- (d) by the issue and sale of exchequer bills, exchequer bonds or treasury bills, in sums of not less than \$400 each, in such form and payable at such periods and places as the Lieutenant-Governor in Council deems expedient, and subject to such regulations as he may make, or by temporary loans, and the interest thereon and the amount of such bills or bonds shall be charged on and paid out of the Consolidated Revenue Fund. R.S.O. 1927, c. 23, s. 3 (1). By issue of exchequer bills, or bonds, or treasury bills.

(2) (a) The Lieutenant-Governor in Council is hereby authorized to raise money by way of loan in such manner and at such times as may be deemed expedient by the issue and sale of securities of one or more of the classes specified in subsection 1, in such amounts as will realize the net sum required for any or all of the following purposes: Raising loans for refunding purposes.

- (i) Payment, refunding or renewal from time to time of the whole or any part of any loan made or securities issued under the provisions of this or any other Act, notwithstanding that the issue of securities for such purpose may have the effect of increasing the amount of the public debt;
- (ii) Payment of the whole or any part of any loan or of any liability or of any bonds, debentures or

other securities, payment whereof is guaranteed or assumed by the Province of Ontario.

(b) A recital or declaration in the Order of the Lieutenant-Governor in Council authorizing the issue and sale of securities to the effect that the amount of the securities so authorized is necessary to realize the net sum required to be raised by way of loan shall be conclusive evidence of that fact. 1935, c. 55, s. 2.

Lieutenant-Governor in Council may provide a sinking fund, general or special.

Proviso.

Securities payable in in any currency.

Issue of new securities on maturity of treasury bills.

Issue of new securities for retirement of temporary loan.

(3) On authorizing the issue of debentures or stock, under clauses *a* or *b*, of subsection 1, the Lieutenant-Governor in Council may provide for a special sinking fund with respect to such issue, and may at any time provide for a general sinking fund for all such portions of the debentures or stock as have been or are hereafter issued without provision for a sinking fund with respect to them; provided that the amount to be invested out of the Consolidated Revenue Fund in any such sinking fund shall not exceed one-half of one per centum per annum on the amount of the debentures or stock to which it relates.

(4) Any of such securities may be made payable in any currency.

(5) Where a sum has heretofore been or is hereafter temporarily raised by way of loan by the issue and sale of exchequer bills, exchequer bonds or treasury bills as provided in clause *d* of subsection 1, the Lieutenant-Governor in Council, upon the maturity of such exchequer bills, exchequer bonds or treasury bills, or before the maturity thereof, may direct that a further issue be made of such exchequer bills, exchequer bonds or treasury bills to the amount of those maturing, or may direct the issue and sale of debentures of Ontario, of Ontario Government stock or of terminable annuities for the retirement of such exchequer bills, exchequer bonds or treasury bills before or upon their maturity, and any debentures, Government stock or terminable annuities so issued shall be redeemable or payable within the term of years fixed by the Act authorizing the loan and such term shall be reckoned from the date of the issue of such debentures, Government stock or terminable annuities, but nothing in this subsection shall authorize the issue of any security beyond the amount of any loan authorized by Act of this Legislature. R.S.O. 1927, c. 23, s. 3 (2-4).

(6) Where a sum has heretofore been, or is hereafter, raised by temporary loan the Lieutenant-Governor in Council may from time to time retire such temporary loan or any part

thereof by the issue of treasury bills to an equal amount, or may direct the issue and sale of debentures of Ontario, of Ontario Government stock, or terminable annuities, for the retirement of such temporary loan, and any debentures, Government stock or terminable annuities so issued shall be redeemable or payable within the term of years fixed by the Act authorizing the loan, and such term shall be reckoned from the date of the issue of such debentures, Government stock or terminable annuities; but nothing in this subsection shall authorize the issue of any security beyond the amount of any loan authorized by Act of this Legislature. 1933, c. 59, s. 2; 1934, c. 43, s. 2.

(7) All debentures, bonds, certificates for inscribed stock or annuities, exchequer bonds or treasury bills issued by the Lieutenant-Governor in Council upon the authority and credit of the Province for obtaining money by way of loan shall contain in the body of the debenture, bond or other document a statement of the particular Act or legislative authority under which such loan has been authorized, and no bonds hereafter issued shall be valid unless such statement of the legislative authority for the particular loan is contained in the body of the debenture, bond or other security.

Debentures,  
bonds, etc.,  
to contain  
authority.

(8) In any advertisement for the sale of debentures, bonds or of other securities set out in subsection 7, issued in the name of the Treasurer of Ontario or any other provincial officer there shall be contained a statement of the legislative authority under which the said loan is authorized. R.S.O. 1927, c. 23, s. 3 (5, 6).

Advertise-  
ment to  
contain  
authority.

4. The Lieutenant-Governor in Council may direct that the whole or any part of Ontario Government stock be inscribed and transferred in a register kept in the United Kingdom, or in any foreign country, at such place, and by such bank, officer or person as he may appoint. R.S.O. 1927, c. 23, s. 4.

Register for  
inscribed  
stock of  
Ontario.

5.—(1) The Lieutenant-Governor may, under the Great Seal or in Council, authorize any person to make any declaration, and take any steps necessary to record such inscribed stock or any portion thereof under and in accordance with the provisions of the Imperial Acts, known as the Colonial Stock Acts of 1877 to 1900, or any amendments thereof.

Lieutenant-  
Governor in  
Council to  
have such  
stock  
recorded.

(2) The Treasurer of Ontario may, out of the Consolidated Revenue Fund, pay, satisfy and discharge any judgment, decree, rule or order of a Court in the United Kingdom, which, under the provisions of section 20 of *The Colonial Stock*

Payment,  
etc.,  
authorized.

*Act, 1877*, or any amendment thereto, is to be complied with by the registrar of the inscribed stock of Ontario in England.

Payment  
of lost  
debentures  
and coupons.

(3) In the event of the loss of any debenture or coupon for interest on any debenture, the Treasurer of Ontario may out of the Consolidated Revenue Fund, pay the amount thereof and may take a bond in such amount and in such form as he may deem advisable, indemnifying the Province of Ontario against loss in respect of such payments. R.S.O. 1927, c. 23, s. 5.

Lieutenant-  
Governor in  
Council may  
change the  
form of debt,  
and on what  
conditions.

6. The Lieutenant-Governor in Council may change the form of any part of the debt of Ontario by substituting one class of the securities aforesaid for another, or by issuing one debenture either fully registered or registered as to principal only in exchange for ten or more debentures of an equal aggregate amount, provided that neither the capital of the debt nor the annual charge for interest is thereby increased, except where a security bearing a lower rate of interest is substituted for one bearing a higher rate of interest, in which case only the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the securities; but such substitution shall not be made unless the consent of the holder of the security for which another is substituted is obtained, or such security is previously purchased or redeemed by or on account of Ontario, and such substitution may be made by the sale of a security of one class and the purchase of that for which it is desired to substitute it. R.S.O. 1927, c. 23, s. 6.

Power to  
cancel  
debentures,  
etc., ac-  
quired on  
sinking fund  
account.

7. The Treasurer of Ontario may cancel any or all debentures, bonds and other securities of the Province of Ontario which come into his hands through purchase for sinking fund, or otherwise, and upon cancellation such debentures, bonds and other securities shall cease to be a charge upon the Consolidated Revenue Fund. R.S.O. 1927, c. 23, s. 7.

Certain  
regulations  
made by  
Lieutenant-  
Governor in  
Council to  
have force  
of law.

8.—(1) The regulations made by the Lieutenant-Governor in Council under this or any former Act shall, in so far as they are not inconsistent with the Act under which they are made, have the same force and effect as if embodied and enacted in an Act of this Legislature.

Officers not  
bound to see  
to trusts.

(2) No officer or person employed in the inscription, registration, transfer, management or redemption of any of the aforesaid securities, or in payment of any dividend or interest thereon, shall be bound to see to the execution of any trust, expressed or implied, to which such securities are subject, or shall be liable in any way to any person for anything by him done in accordance with any such regulation. R.S.O. 1927, c. 23, s. 8.



**9.** All money raised by the issue and sale of any of the aforesaid securities shall be paid to the Treasurer, and shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 23, s. 9. Money raised to form part of Con. Rev. Fund.

**10.** The Lieutenant-Governor in Council may direct that money invested in Ontario Government stock, bonds or debentures and the interest thereon shall be free from all provincial taxes, succession duty, charges and impositions and from municipal taxation. R.S.O. 1927, c. 23, s. 10. Exemption from taxation.

**11.** Nothing in this Act shall authorize any increase of the public debt without the express authority of this Legislature, except in the manner and to the extent hereinbefore mentioned. R.S.O. 1927, c. 23, s. 11. Debt not to be increased except as herein provided.

**12.—(1)** The Lieutenant-Governor in Council may provide for the manner of executing provincial securities, and that the signature of the Treasurer of Ontario upon provincial securities and the coupons attached thereto may be lithographed or engraved, the securities being in such case countersigned by the Assistant Treasurer or such officer or officers of the Treasury department as may be appointed for the purpose. R.S.O. 1927, c. 23, s. 12. Provincial securities, how executed.

**(2)** Where in any Act authority is given to the Lieutenant-Governor in Council to raise, by way of loan, any sum of money the Lieutenant-Governor in Council may from time to time authorize the Treasurer of Ontario to raise the whole or any part thereof by temporary loan, and, in such case, unless the Lieutenant-Governor in Council otherwise directs, such sum as the Treasurer is authorized to raise by temporary loan or any part thereof may be raised by way of cheques creating overdrafts having the facsimile signature of the Treasurer of Ontario affixed thereto by the use of a rubber stamp or by printing, lithographing or engraving and bearing such signatures or countersignatures of other officers, who for the time being are authorized to sign or countersign cheques, as would make such cheques if not creating overdrafts binding on the Province of Ontario, and all moneys paid in honouring any such cheque by any bank upon which such cheque is drawn shall conclusively be deemed to have been raised by the Lieutenant-Governor in Council in pursuance of such Act. 1934, c. 43, s. 3. Authority for temporary loans and overdrafts.

**13.** Nothing in this Act shall impair or prejudicially affect the rights of the holder of any securities heretofore issued. R.S.O. 1927, c. 23, s. 13. Securities heretofore issued protected.



## CHAPTER 23.

## The Public Revenue Act.

Interpretation.

1. In this Act the word "revenue" shall mean and include all provincial revenue and all public money arising from any source whatsoever. R.S.O. 1927, c. 24, s. 1.

Revenue officers.

2. Every person whose duty it is to receive moneys forming part of the revenue, or who is entrusted with the custody or expenditure of such moneys although not regularly employed in collecting or managing the same, shall, in respect thereto, be subject to the provisions of this Act. R.S.O. 1927, c. 24, s. 2.

## COLLECTION AND MANAGEMENT OF THE REVENUE.

Lieutenant-Governor in Council shall determine what officers are necessary, and fix their salaries.

3. The Lieutenant-Governor in Council may determine what persons it is necessary to employ in collecting or managing the revenue, and in carrying into effect the laws relating thereto, and for preventing any contravention of such laws, and may assign their names of office, and grant out of any money appropriated for that purpose by this Legislature, to such persons such salaries or remuneration as to the Lieutenant-Governor in Council may seem proper. R.S.O. 1927, c. 24, s. 3.

Salaries to be in lieu of all other emoluments.

4.—(1) Except where otherwise provided by law, the salary or remuneration allowed to any such person shall be in lieu of all fees, allowances or emoluments, except actual and authorized disbursements.

Officer receiving \$1,000 per annum not to follow any other occupation.

(2) No such person, receiving a salary at or exceeding the rate of \$1,000 per annum, shall exercise any other calling, profession, trade or employment whatsoever with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except an office relating to the collection or management of the revenue, held by such person with the permission of the Lieutenant-Governor in Council. R.S.O. 1927, c. 24, s. 4.

Officers to take an oath of office.

5. Every person appointed to any office or employment relating to the collection or management of the revenue, on his admission to such office or employment, shall take, before

such officer as the Lieutenant-Governor may appoint, the following oath:—

"I, A. B., do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge by my appointment as \_\_\_\_\_, and that I will not require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description, whatsoever either directly or indirectly, for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my office or employment, on any account whatsoever, other than my salary, or what shall be allowed me by law. So help me God."

R.S.O. 1927, c. 24, s. 5.

**6.** The Lieutenant-Governor in Council may make such divisions of the Province into districts or otherwise as are required with regard to the collection or management of the revenue, and may assign the officers or persons by whom any duty or service relating to such purpose shall be performed within or for such district or division, and the place or places where such duty or service shall be performed, and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them entrusted, as he may deem expedient. R.S.O. 1927, c. 24, s. 6.

Lieutenant-Governor in Council may divide Province into revenue divisions.

**7.**—(1) A person employed on any duty or service relating to the collection or management of the revenue, by the order or with the concurrence of the Lieutenant-Governor in Council, whether previously or subsequently expressed, shall be deemed to be the proper officer for that duty or service; and every act, matter or thing required by any law to be done or performed by, to or with any particular officer nominated for that purpose in such law, being done or performed by, to or with any person appointed or authorized by the Lieutenant-Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with him.

Persons employed with the concurrence of the Lieutenant-Governor in Council to be deemed the proper officers.

(2) Every act, matter or thing required by law to be done at any particular place within any district or division of Ontario, being done at any place within such district or division, appointed by the Lieutenant-Governor in Council for the purpose, shall be deemed to be done at the particular place so required. R.S.O. 1927, c. 24, s. 7.

Place for performance of acts required by law.

**8.** An officer or person employed in the collection, management or accounting for any branch of the revenue may be employed in the collection, management or accounting for any other branch thereof. R.S.O. 1927, c. 24, s. 8.

Officers employed in one branch may be employed in another.

**9.** The Lieutenant-Governor in Council may appoint the hours of general attendance of the officers and persons employed in the collection or management of the revenue at

Hours of office and seasons for certain business, how appointed.

their proper offices and places of employment, and may also appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such officers or other persons shall be performed by them respectively; and a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices or places of employment. R.S.O. 1927, c. 24, s. 9.

Offices may  
be closed on  
holidays.

**10.** No officer employed in the collection of the revenue shall be required to keep his office open on any holiday. R.S.O. 1927, c. 24, s. 10.

Lieutenant-  
Governor in  
Council may  
direct ac-  
counts to be  
kept.

**11.** The Lieutenant-Governor in Council may direct any person employed in collecting or managing the revenue to keep such books or accounts as he may deem advisable, and may allow any necessary expense incurred for the purpose. R.S.O. 1927, c. 24, s. 11.

Public  
money  
to be paid to  
credit of the  
Treasurer.

**12.** All public moneys, from whatsoever source derived, and all moneys forming part of special funds administered by the Government, shall be paid to the credit of the Treasurer of Ontario in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 24, s. 12.

Prescribing  
mode and  
times in  
which  
moneys  
shall be  
accounted  
for and paid  
over.

**13.** The Lieutenant-Governor in Council may appoint the times and mode in which any person employed in the collection or management of the revenue shall account for and pay over the money which comes into his hands to the person appointed to receive the same. R.S.O. 1927, c. 24, s. 13.

#### LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS.

Penalty for  
not  
transmitting  
accounts.

**14.** If any person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the proper officer or department on or before the day appointed for the transmission thereof, such person shall for such refusal or neglect forfeit and pay to the Crown, for the public uses of Ontario, \$100, and in an action for the recovery of such sum it shall be sufficient to prove that such account, statement or return ought to have been transmitted by the defendant, and the onus of proving that the same was so transmitted shall rest upon him. R.S.O. 1927, c. 24, s. 14.

Proof in  
action for  
recovery of  
penalty.

Notice to  
persons neg-  
lecting to pay  
over money  
received for  
public  
purposes.

**15.**—(1) Where the Treasurer of Ontario has reason to believe that any person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands public money applicable to any purpose, and has not paid

over or duly applied and accounted for the same, he may give notice to such person, or to his personal representative in case of his death, requiring him within a time to be therein named, to pay over, apply and account for such money to the Treasurer, or to the officer mentioned in the notice, and to transmit the proper vouchers that he has so done.

(2) The notice may be served by delivering a copy to the person to whom it is addressed, or by leaving it for him at his usual place of abode. R.S.O. 1927, c. 24, s. 15.

Service of notice.

**16.** If any person fails to pay over, apply or account for such money, and to transmit the vouchers within the time limited by the notice, the Treasurer may state an account as between such person and the Crown in the matter to which the notice relates, charging interest from the service, or from any earlier date from which interest may be payable, and shall deliver a copy thereof to the Attorney-General, and such copy shall be *prima facie* evidence to support an information or other proceeding for the recovery of the amount therein shown to be in the hands of the defendant as a debt due to the Crown. R.S.O. 1927, c. 24, s. 16.

Proceedings against persons refusing to comply with notice.

**17.** Where such person has transmitted an account either before or after the notice, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit, the Treasurer may give notice in the manner provided by section 15, to transmit vouchers, or sufficient vouchers within a time to be named in the notice; and if the vouchers are not transmitted within that time, the Treasurer may state an account against such person disregarding the sums for which he has taken credit, but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of the account to the Attorney-General, and the copy may be used in the same manner and with the same effect as the copy mentioned in section 16. R.S.O. 1927, c. 24, s. 17.

Proceedings against persons transmitting accounts without vouchers.

**18.** If by reason of malfeasance or gross carelessness or neglect of duty by any person employed in the collection or management of the revenue a sum of money is lost to the Crown, such officer or person shall be accountable therefor as if he had collected and received the same. R.S.O. 1927, c. 24, s. 18.

Responsibility for losses arising from malfeasance or gross neglect, etc.

**19.** If any person has received public money for the purpose of applying it to a specific purpose, and has not so applied it within the time or in the manner provided by law, he shall be deemed to have received such money for the

Unapplied public money to be paid to the Treasurer on demand.



Recovery, if  
not so paid.

Crown for the public uses of Ontario, and may be notified by the Treasurer to repay such sum to him, and the same may be recovered as a debt due to the Crown, and an equal sum out of the Consolidated Revenue Fund may in the meantime be applied to the purpose to which such sum ought to have been applied. R.S.O. 1927, c. 24, s. 19.

No officer to  
take any fee,  
etc., on pain  
of dismissal.

**20.** If a person acting in any office or employment connected with the collection or management of the revenue takes or receives, directly or indirectly, any fee, perquisite, gratuity or reward, whether pecuniary or of any other description, from any person, not being a person authorized to pay or allow the same, on account of anything done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Lieutenant-Governor in Council, he may be dismissed from his office or employment, and if any person, not being authorized to pay or allow the same, gives, offers or promises any such fee, perquisite, gratuity, or reward, he shall, for every such offence, incur a penalty of \$400. R.S.O. 1927, c. 24, s. 20.

Penalty on  
persons offer-  
ing fees, etc.

All books,  
etc., used in  
the collection  
and the man-  
agement of  
the revenue  
to be the  
property of  
His Majesty.

**21.** All books, papers, accounts and documents by whomsoever the paper and materials thereof were procured, furnished or paid for, kept by or used or received or taken into the possession of any person employed or having been employed in the collection or management of the revenue, by virtue of his employment, shall be deemed to be chattels belonging to the Crown, and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to the Crown. R.S.O. 1927, c. 24, s. 21.

Nothing in  
this Act to  
impair other  
remedies of  
the Crown.

**22.** Nothing in this Act, nor any conviction for the contravention thereof, shall affect any remedy which the Crown by virtue of any other Act or law has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, and in the possession of any person, nor any remedy which His Majesty or any person has against the offender or his sureties, or against any other person; but the conviction of the offender shall not be received in evidence in any action against him. R.S.O. 1927, c. 24, s. 22.



## CHAPTER 24.

### The Audit Act.

1. The Lieutenant-Governor in Council may appoint three members of the Executive Council to be a board to be called the "Treasury Board." R.S.O. 1927, c. 25, s. 1.

2. The Lieutenant-Governor in Council may appoint an officer to be called the "Auditor," who shall be paid a salary of \$7,500 per annum, which shall be charged to and paid out of the Consolidated Revenue Fund. R.S.O. 1927, c. 25, s. 2; 1930, c. 21, s. 2 (1); 1937, c. 72, s. 7 (1).

3. The Auditor shall hold office during good behaviour, but shall be removable for cause by the Lieutenant-Governor on address of the Assembly. R.S.O. 1927, c. 25, s. 3.

4. There shall be an assistant auditor who shall be appointed by the Lieutenant-Governor in Council and who, in case of the absence of the Auditor owing to illness or otherwise, or in case of a vacancy in the office, shall during such absence or vacancy possess the powers and perform the duties of the Auditor. R.S.O. 1927, c. 25, s. 4.

5. The Lieutenant-Governor in Council, upon the recommendation of the Auditor, may appoint such officers, clerks or persons as the Auditor may deem necessary to be employed in the audit office. R.S.O. 1927, c. 25, s. 5.

6.—(1) The Auditor may,—

- (a) suspend any officer, clerk or other person employed in his office;
- (b) make rules and orders for the internal government of his office, and for the guidance of persons accounting for public moneys, in making up and rendering their accounts for examination.

(2) The rules and orders shall not go into effect until approved by the Treasury Board, and shall be laid before the Assembly within the first ten days of the session next after the approval thereof. R.S.O. 1927, c. 25, s. 6.

Cancelling  
debentures.

**7.** The Auditor and the Assistant Treasurer shall examine and cancel debentures, or other Provincial securities, representing any debt of Ontario which have been redeemed. R.S.O. 1927, c. 25, s. 7.

Audit by  
deputy  
heads, etc.

**8.** The deputy heads of the several departments, or the officers, clerks or other persons charged with the expenditure of public moneys, shall respectively audit the details of the accounts of the several services in the first instance, and be responsible for the correctness of the audit. R.S.O. 1927, c. 25, s. 8.

Auditor to  
audit public  
accounts.

**9.—(1)** The Auditor shall, subject to the exceptions hereinafter mentioned, examine, check and audit all accounts of receipts and expenditure of public moneys and moneys received or expended on account of or in trust for any other person.

Application  
of section.

**(2)** This section shall apply to the receipts and expenditures of any department of the Government and of commissioners appointed to manage any department, service, property or business of Ontario when the Treasurer of Ontario directs that such audit shall be made.

Examination  
of vouchers.

**(3)** In conducting the examination of the vouchers relating to the appropriations for the several services sanctioned by the Appropriation Act of the year, or by any other Act of this Legislature, the Auditor shall test the accuracy of the castings and computations of the several items of the vouchers; but if he is satisfied that the accounts bear evidence that the vouchers have been completely checked, examined, and certified as correct in every respect, and that they have been allowed, and passed by the proper officers, he may admit them as satisfactory; provided always, that if the Treasurer desires any voucher to be examined by the Auditor in greater detail, the Auditor shall cause such voucher to be subjected to such examination in detail as the Treasurer may prescribe. R.S.O. 1927, c. 25, s. 9.

Auditor may  
examine on  
oath.

**10.** The Auditor may examine any person on oath as to any matter pertinent to any account submitted for audit. R.S.O. 1927, c. 25, s. 10.

Auditor to  
see that  
money is not  
expended  
without or  
in excess of  
appropriation.

**11.** The Auditor shall, subject to the exceptions hereinafter mentioned, see that no cheque issues for the payment of any public money, for which there is no direct legislative appropriation, or in excess of any portion of such appropriation the expenditure of which has been authorized by the Lieutenant-Governor in Council, and he shall report to the

Lieutenant-Governor in Council, through the Treasurer, any case in which money has been expended out of the proceeds of any accountable warrant for any purpose for which there is no sufficient authority, or beyond the amount for which there is such authority. R.S.O. 1927, c. 25, s. 11.

**12.** Where money is voted for the salaries of the officers or clerks in any branch of the Government service, and in consequence of the death or resignation of any such officer or clerk, or through a vacancy otherwise caused, any part of such money is not required for the payment of salaries, but is required for the remuneration of persons employed to perform work in such branch during the vacancy, the same may be used for that purpose, and any person temporarily employed may be paid out of the appropriation available on account of any such vacancy at such rate, not exceeding the allowance which was payable to such officer or clerk whose office may be vacant, as may be determined by the head of the department or by the Lieutenant-Governor in Council. R.S.O. 1927, c. 25, s. 12.

Application of money voted for salaries during vacancies by death, resignation, etc.

**13.—(1)** A cheque for public money shall not issue except upon the certificate of the Auditor that there is legislative authority for the expenditure, save only in the following cases:—

When only cheques may issue without certificate of Auditor.

- (a) When, upon an application for a cheque, the Auditor has reported that there is no legislative authority, or that the expenditure is not authorized by law, then, upon the written opinion of the Attorney-General, or of the Deputy Attorney-General, that there is legislative authority, citing it, or that upon the facts as stated by the Auditor the payment is authorized by law, the Treasurer may direct the issue of the cheque, and the Auditor shall countersign it.
- Upon advice of Attorney-General.
- (b) If, when the Legislature is not in session an accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion arises when an expenditure not foreseen or provided for by the Legislature is urgently and immediately required for the public good, then, upon the report of the Treasurer that there is no legislative provision therefor, and of the Minister having charge of the service that the necessity is urgent and for the public good, the Lieutenant-Governor in Council may order a special warrant to be prepared, to be signed by the
- Cases of urgency.

Lieutenant-Governor for the issue of the amount estimated to be required, which shall be placed by the Treasurer to a special account, against which cheques may issue, as may be required.

Reference to  
Treasury  
Board.

(c) When the Auditor has for any reason refused to certify that a cheque may issue, the department making requisition for the cheque shall notify him that the matter will be referred to the Treasury Board and thereupon the correspondence in the case together with a memorandum stating,—

(i) the purpose for which the expenditure is required;

(ii) the appropriation to which the expenditure is chargeable;

(iii) the objections taken by the Auditor;

(iv) the answer to such objections;

shall be submitted by the Minister in charge of the department to the Treasury Board and the board may determine as to the sufficiency of the Auditor's objections, and may in their discretion order the issue of the cheque and the Auditor shall countersign it.

Criminal  
inquiries.

(d) In the cases provided for by section 17.

Statement  
by Auditor  
of cheques,  
etc., issued  
without his  
certificate.

(2) The Auditor shall prepare a statement of all such legal opinions, reports to Council, special warrants, and cheques for the issue of which he has refused to certify, and of all expenditures incurred in consequence thereof, and such statement shall be delivered to the Treasurer and be laid before the Assembly not later than the third day of the session of the Legislature then next ensuing. R.S.O. 1927, c. 25, s. 13.

Counter-  
signing  
cheques.

**14.** Every cheque issued by the Treasurer shall be countersigned by the Auditor or by any officer designated by the Auditor for that purpose, but before any cheque is countersigned the Auditor shall satisfy himself that the issue of the cheque is authorized. R.S.O. 1927, c. 25, s. 14.

Cheque  
record-book  
to be kept.

**16.** The Auditor shall keep a cheque record-book with each bank upon which cheques are drawn, in which shall be entered all bank cheques countersigned by him, with the date of issue,



the name of the person to whom payable, and the amount, and he shall initial the entry of each cheque countersigned by him, after satisfying himself that the entry is correct. R.S.O. 1927, c. 25, s. 15.

**16.** No payment shall be authorized by the Auditor in respect of work performed, or materials supplied by any person in connection with any part of the public service, unless, in addition to any other voucher or certificate which may be required, the officer under whose special charge such part of the public service is certifies that the work has been performed, or the materials supplied, as the case may be, and that the price charged is according to contract, or, if not covered by a contract, is fair and just. R.S.O. 1927, c. 25, s. 16.

Accounts for work, etc., to be certified by officer in charge.

**17.—(1)** The certificate or order of the Attorney-General or the Deputy Attorney-General that any sum of money is required to be paid out of the Consolidated Revenue Fund on account of the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters, shall be sufficient authority for the issuing of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom the cheque is issued shall account to the Attorney-General for the proper disbursement of the amount received by such officer or other person.

Payments for criminal investigation.

**(2)** The certificate of the Attorney-General or Deputy Attorney-General that any moneys received by any officer or other person under this Act have been duly accounted for shall be final and conclusive and the account shall not be subject to any further audit or examination. R.S.O. 1927, c. 25, s. 17.

Certificate that moneys accounted for.

**18.** Where the account of an official for transportation, travelling and incidental expenses does not exceed the sum of \$100, such account may be certified by the Minister, or Acting Minister, to whose department such official belongs, and when so certified shall be sufficient authority for the issuing of a cheque by the Treasurer for the amount thereof, and the Auditor shall countersign such cheque, and shall also countersign all cheques issued under the authority of section 17, and a statement giving a list of such certificates shall be published in the public accounts for the year. R.S.O. 1927, c. 25, s. 18.

Accounts for travelling expenses, etc., not exceeding \$100.



Allowances  
for travelling  
and living  
expenses.

**19.** The Lieutenant-Governor in Council may make regulations for fixing the scale of allowances for the travelling and living expenses to be allowed to any person employed in or in connection with any part of the public service. R.S.O. 1927, c. 25, s. 19.

Fiscal year.

**20.**—(1) The public accounts shall include the period from the 1st day of April in one year to the 31st day of March in the next year, which period shall constitute the fiscal year; all estimates submitted to the Legislature shall be for the services coming in course of payment during the fiscal year; and all balances of appropriation which remain unexpended at the end of the fiscal year shall lapse and be written off; provided, that upon cause being shown to the satisfaction of the Lieutenant-Governor in Council he may, by Order-in-Council to be made before the first day of April of each year, extend the time for finally closing the account of any appropriation, for a period of not more than one month from the end of the fiscal year; after the expiration of which extended time, and not before, the balance of such appropriation shall lapse and be written off, but any accounts for services during the preceding fiscal year which remain unpaid at the end of the period above mentioned shall be paid out of the appropriation for the ensuing fiscal year. 1935, c. 22, s. 3.

Preparation  
of public  
accounts.

(2) The Auditor shall prepare and deliver to the Treasurer the Public Accounts to be laid before the Assembly. R.S.O. 1927, c. 25, s. 20 (2).

Temporary  
loans  
authorized.

**21.**—(1) The Lieutenant-Governor in Council may, when the exigencies of the public service require, in the event of the Consolidated Revenue Fund being insufficient to meet the charge placed thereon by law, raise by temporary loans chargeable on the fund, for such periods, not exceeding six months, such sums as are necessary to enable the fund to meet such charges.

Limit.

(2) The sums so raised shall never exceed the amount of the deficiency in the Consolidated Revenue Fund to meet the charges thereon then due or payable, either as principal or interest, and shall be applied to no other purpose.

Reporting to  
Assembly.

(3) An account in detail of all such temporary loans shall be laid before the Assembly within the first fifteen days of the session next ensuing. R.S.O. 1927, c. 25, s. 21.

Treasury  
Board may  
alter date of  
returns.

**22.** The Treasury Board may alter the period at or to which any person accountable for public moneys is required to render any account or to make any return, whenever in

their opinion the alteration will facilitate the preparation of the public accounts or estimates, anything in any Act to the contrary notwithstanding. R.S.O. 1927, c. 25, s. 22.

**23.** The Auditor shall,— Appropriation ledger.

- (a) keep an appropriation ledger, in which shall be entered the supply grants comprised in the Appropriation Act for the year, against which shall be charged all authorized expenditure out of the appropriations;
- (b) shall furnish to each department monthly a statement of the charges entered against the several appropriations belonging to such department, and showing the balances at the credit of the appropriations at the close of the month;
- (c) whenever an appropriation is exhausted, at once notify the department to which the appropriation belongs, and not sanction any further payments to be charged to such exhausted appropriation except as hereinafter provided. R.S.O. 1927, c. 25, s. 23.

**24.** If a difference arises between the Auditor and any department respecting the appropriation to which an authorized expenditure should be charged, such difference may be referred by the department to the Treasury Board, and the Board shall determine in what manner and to what appropriation or account such expenditure shall be charged. R.S.O. 1927, c. 25, s. 24. Determination of differences as to charges against appropriations.

**25.—**(1) Where an appropriation is exhausted and the public interest or the urgent requirements of the public service necessitate further payments, the head of the department to which the appropriation belongs, or his deputy, shall transmit to the Auditor the accounts for which payment is asked, with a special report as to the necessity for payment and the reasons why the appropriation is insufficient. Payments in excess of appropriations.

(2) The Auditor shall submit the accounts and the report to the Treasury Board, with such remarks either approving or disapproving of the payment as he may consider necessary. Submission to Treasury Board.

(3) If the Board approves of payment of the accounts the Auditor, upon being notified of such approval, shall authorize the issue of cheques therefor. R.S.O. 1927, c. 25, s. 25. Payment if approved.

Payments  
authorized  
by Assembly.

**26.** Notwithstanding anything in this Act contained, whenever the Assembly has concurred in the report of the Committee of Supply recommending the passing of any estimates of expenditure, the Lieutenant-Governor in Council may authorize the payment of any items of expenditure so concurred in. R.S.O. 1927, c. 25, s. 26.

Report of  
over expendi-  
ture.

**27.** The Auditor shall report to the Treasurer, for the information of the Assembly, all expenditures in excess of the appropriations by the Appropriation Act, citing the recommendation and explanation of the department and the authority of the Treasury Board. R.S.O. 1927, c. 25, s. 27.

Particulars  
which are to  
be mentioned  
in report of  
Auditor.

**28.** In reporting for the information of the Assembly the result of the examination of the appropriation accounts, the Auditor shall call attention to every case in which it appears to him that a grant has been exceeded, or that money received by a department from other sources than the grants for the year to which the account relates has not been applied or accounted for according to the directions of the Legislature, or that a sum charged against a grant is not supported by proof of payment, or that a payment so charged did not occur within the period of the account, or was for any other reason not properly chargeable against the grant. R.S.O. 1927, c. 25, s. 28.

Report by  
Auditor to  
Legislative  
Assembly.

**29.** If the Treasurer does not, at the time prescribed by this Act, present to the Assembly any report made by the Auditor on the appropriation accounts, or any other accounts, the Auditor shall forthwith present such report. R.S.O. 1927, c. 25, s. 29.

Accounts  
which are to  
be examined  
by Auditor.

**30.** Besides the appropriation accounts of the grants of the Legislature, the Auditor shall examine and audit, if required to do so by the Treasurer, and in accordance with any regulations that may be prescribed for his guidance by the Treasury Board, the following accounts,—

- (a) the accounts of all receipts of revenues forming the Consolidated Revenue Fund;
- (b) the accounts current with the several banks and and financial agents of the Province;
- (c) the accounts relating to the issue or redemption of loans; and
- (d) any other public accounts which, though not relating directly to the receipts or expenditure of the Province, the Treasury Board may direct him to examine and audit. R.S.O. 1927, c. 25, s. 30.

**31.**—(1) The Treasury Board may direct in what manner and with what detail the Public Accounts and statements therein are to be prepared and may make regulations in regard thereto for the guidance of the Auditor who shall carry out the same. Regulations of Treasury Board as to preparation of accounts.

(2) The Treasury Board may in like manner make regulations with regard to reports and statements to be made by the Auditor under section 13, and the detail with which the same shall be printed in the Public Accounts, and it shall be the duty of the Auditor to conform to any regulations so made. R.S.O. 1927, c. 25, s. 31. And as to reports and statements.

**32.** The accounts which, by section 31, the Treasurer is empowered to subject to the examination of the Auditor, shall be rendered to him by the departments or officers directed so to do by the Treasury; and the term "accountant," when used in this and the following sections with reference to such accounts, shall be taken to mean the department or officer that may be required to render the same; and every public officer into whose hands public moneys, either in the nature of revenue or fees of office, shall be paid by persons bound by law or regulation to do so, or by subordinate or other officers whose duty it may be to pay such moneys, wholly, or in part, into the account of the Treasurer, or to apply the same to any public service, shall, at such times and in such forms as the Treasury Board shall determine, render an account of his receipts and payments to the Auditor; and it shall be the duty of the Clerk of the Executive Council to inform the Auditor of the appointment of every such officer. R.S.O. 1927, c. 25, s. 32. Accounts to be submitted to Auditor.

**33.**—(1) Where the Auditor is required by the Treasurer to examine and audit the accounts of the receipt, expenditure, sale, transfer, or delivery of any securities, stamps, Canadian or other Government stock or annuities, provisions, stores, or other property belonging to the Province of Ontario, he shall, on the examination of such accounts being completed, transmit a statement thereof, or a report thereon, to the Treasurer, who shall, if he thinks fit, signify his approval of such accounts. Approval of accounts.

(2) The Auditor, on receipt of such approval, shall thereupon transmit to the accountant a certificate in a form to be determined by the Auditor, which shall be to the accountant a valid and effectual discharge from so much as he may thereby appear to be discharged from. R.S.O. 1927, c. 25, s. 33. Certificate of Auditor—effect of.



Recovery of  
balances of  
public money  
in hands of  
accountants.

**34.** Every accountant, on the termination of his charge, or in the case of the death of an accountant his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge to the public officer authorized to receive the same, and in all cases in which it shall appear to the Auditor that a balance of public money has been improperly or unnecessarily retained by an accountant, he shall report the circumstances to the Treasurer, who shall take such measures as to him may seem expedient for the recovery of such balance, with interest, upon the whole or such part thereof, for such period of time and at such rate as to the Treasurer may appear just and reasonable. R.S.O. 1927, c. 25, s. 34.

Authority for  
payment of  
accounts for  
printing,  
stationery,  
etc.

**35.** The Treasurer of Ontario is authorized to pay out of the Consolidated Revenue Fund accounts regularly approved by the King's Printer and by the Treasurer for legislative and departmental printing, paper and stationery and other supplies delivered to the King's Printer to an amount not exceeding in any financial year the sum of \$150,000. R.S.O. 1927, c. 25, s. 35.

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## CHAPTER 25.

## The Income Tax Act.

## SHORT TITLE.

1. This Act may be cited as *The Income Tax Act* (Ontario). Short title.

## INTERPRETATION.

2. In this Act, and in any regulations made hereunder, Interpretation.  
unless the context otherwise requires,

- (a) "Commissioner of Income Tax" means the officer appointed by the Governor in Council pursuant to the provisions of the *Department of National Revenue Act* (Canada); "Commissioner of Income Tax." R.S.C., c. 137.
- (b) "dividends" shall include stock dividends; "Dividends."
- (c) "employed in Ontario" means regularly or continuously employed to perform personal services, any part of which is performed in Ontario, for salary, wages, commissions, fees or other remuneration, whether directly or indirectly received, derived from sources within Ontario; "Employed in Ontario."
- (d) "Controller of Revenue" means the Controller of Revenue for the Province of Ontario appointed by the Lieutenant-Governor in Council; "Controller of Revenue."
- (e) "gross revenue" (where a personal corporation has revenue from more than one source) means the sum of the net profits from each source; "Gross revenue."
- (f) "Treasurer" means the Treasurer of Ontario; "Treasurer."
- (g) "Minister" means the Minister of National Revenue appointed under the provisions of the *Department of National Revenue Act* (Canada); "Minister."

- "Person." (h) "person" includes any association, trust, personal corporation or other body, and the heirs, executors, administrators and curators or other legal representatives of such person, according to the law of Ontario; but does not include any body corporate except a personal corporation;
- "Personal corporation." (i) "personal corporation" means a corporation or joint stock company, irrespective of when or where created, whether in Ontario or elsewhere, and irrespective of where it carries on its business or where its assets are situate, controlled, directly or indirectly, by one individual who resides in Ontario, or by one such individual and his wife or any member of his family, or by any combination of them or by any other person or corporation or any combination of them on his or their behalf, and whether through holding a majority of the stock of such corporation or in any other manner whatsoever, the gross revenue of which is to the extent of one-quarter or more derived from one or more of the following sources, namely:—
- (i) From the ownership of or the trading or dealing in bonds, stocks or shares, debentures, mortgages, hypothecs, bills, notes or other similar property,
  - (ii) From the lending of money with or without security, or by way of rent, annuity, royalty, interest or dividend, or
  - (iii) From or by virtue of any right, title or interest in or to any estate or trust;
- "Self-contained domestic establishment." (j) "self-contained domestic establishment" means a dwelling house, apartment or other similar place of residence, containing at least two bedrooms, in which residence amongst other things the taxpayer as a general rule sleeps and has his meals prepared and served;
- "Taxpayer." (k) "taxpayer" means any person paying, liable to pay, or believed by the Treasurer to be liable to pay, any tax imposed by this Act;
- "Year." (l) "year" means the calendar year or such other period of time as the context may require;

- (m) "corporation" means a corporation and an association however or wherever incorporated. 1936, <sup>"Corporation."</sup>  
c.1, s. 2.

## PART I.

### TAXABLE INCOME.

#### TAXABLE INCOME DEFINED.

**3.** For the purposes of this Act, "income" means the <sup>"Income"</sup> annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary, or other fixed amount, or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling, directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be, whether derived from sources within Ontario or elsewhere; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including

- (a) the income from but not the value of property acquired by gift, bequest, devise or descent; and
- (b) the income from but not the proceeds of life insurance policies paid upon the death of the person insured, or payments made or credited to the insured on life insurance endowment or annuity contracts upon the maturity of the term mentioned in the contract or upon the surrender of the contract; and
- (c) any payment to any employee out of any employees' superannuation or pension fund or plan; and
- (d) the salaries, indemnities or other remuneration of
  - (i) members of the Senate and House of Commons of Canada and officers thereof;
  - (ii) members of the Legislative Assembly of Ontario;

- (iii) members of Municipal Councils, Commissions or Boards of Management;
- (iv) any Judge of any Dominion or Provincial court whose salary was increased by chapter fifty-nine of the Statutes of Canada of one thousand nine hundred and nineteen or by chapter fifty-six of the Statutes of Canada of one thousand, nine hundred and twenty and who accepted such increase, and any Judge of any such Court appointed after the seventh day of July, one thousand, nine hundred and nineteen; and
- (v) all persons, whatsoever, whether the said salaries, indemnities or other remuneration are paid out of the revenue of His Majesty in respect of His Government of Canada, or of any province thereof, or by any person, except as herein otherwise provided; and
- (e) personal and living expenses when such form part of the profit, gain or remuneration of the taxpayer;
- (f) rents, royalties, annuities or other like periodical receipts which depend upon the production or use of any real or personal property, notwithstanding that the same are payable on account of the use or sale of any such property. 1936, c. 1, s. 3.

## PART II.

### EXEMPTIONS AND DEDUCTIONS.

#### EXCEPTED INCOMES.

Incomes  
not liable  
to tax.

4. The following incomes shall not be liable to taxation hereunder:—

Governor-  
general.

(a) The income of the Governor-General of Canada;

Consuls-  
general.

(b) The income of consuls and consuls-general and of officials or officers of a foreign country whose duties require them to reside in Ontario, if and only if they are citizens of the country they represent and are not engaged in any business or calling other than the duties appertaining to their official position and provided that the country they represent grants a similar exemption to officials of the Government of Canada;

- (c) The income of officials of Great Britain, of the <sup>British officials.</sup> Dominions, other than the Dominion of Canada, and of Great Britain's colonies whose duties require them to reside in Ontario, and who are not engaged in any business or calling other than the duties appertaining to their official position;
- (d) The income of any commission or association not <sup>Municipal undertaking.</sup> less than ninety per centum of the capital of which is owned by a province or a municipality;
- (e) The income of any religious, charitable, agricultural and educational institution, board of trade and chamber of commerce, no part of the income of which inures to the personal profit of, or is paid or payable to any proprietor thereof; <sup>Charitable institutions.</sup>
- (f) The income of labour organizations and societies <sup>Labour organiza-</sup> and of benevolent and fraternal beneficiary societies <sup>tions.</sup> and orders;
- (h) The income of clubs, societies and associations, <sup>Clubs.</sup> organized and operated solely for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which inures to the benefit of any member;
- (i) The income of such insurance, mortgage and loan associations operated entirely for the benefit of <sup>Farmers' associations.</sup> farmers as are approved by the Treasurer;
- (p) The income of farmers', dairymen's, livestockmen's, fruit growers', poultrymen's, fishermen's and other <sup>Co-opera-</sup> like co-operative associations, organized and operated <sup>tive com-</sup> on a co-operative basis, which organizations <sup>panies and associations.</sup>
- (a) market the products of the members of such co-operative organizations under an obligation to pay to them the proceeds from the sales on the basis of quantity and quality, less necessary expenses and reserves;
- (b) purchase supplies and equipment for the use of such members under an obligation to turn such supplies and equipment over to them at cost, plus necessary expenses and reserves.

Such associations may market the produce of, or purchase supplies and equipment for non-members of the association provided the value thereof does not exceed twenty per centum of the value of produce, supplies or equipment marketed or purchased for the members.



This exemption shall extend to associations owned or controlled by such co-operative associations and organized for the purpose of financing their operations.

- (*q*) The income of any banking institution organized under co-operative provincial legislation which derives its revenues from loans made primarily to members residing within the territorial limits within the province to which the institution is restricted for the carrying on of its business;
- (*r*) The income of members of the Senate and House of Commons of Canada whose usual place of residence is outside of Ontario. 1936, c. 1, s. 4.

#### DEDUCTIONS AND EXEMPTIONS ALLOWED

Exemptions  
and  
deductions.

5.—(1) "Income" as hereinbefore defined shall, for the purposes of this Act, be subject to the following exemptions and deductions:—

Depreciation  
and  
exhaustion.

- (*a*) Such reasonable amount as the Treasurer in his discretion, may allow for depreciation, and the Treasurer in determining the income derived from mining and from oil and gas wells and timber limits shall make such an allowance for the exhaustion of the mines, wells and timber limits as he may deem just and fair; provided, however, that when depreciation and exhaustion allowances cease under the *Income War Tax Act* (Canada) they shall also cease under this Act;

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Depletion  
between  
lessor and  
lessee.

And in the case of leases of mines, oil and gas wells and timber limits, the lessor and the lessee shall each be entitled to deduct a part of the allowance for exhaustion as they agree and in case the lessor and the lessee do not agree, the Treasurer shall have full power to apportion the deduction between them and his determination shall be conclusive;

Interest on  
borrowed  
capital.

- (*b*) Such reasonable rate of interest on borrowed capital used in the business to earn the income as the Treasurer in his discretion may allow notwithstanding the rate of interest payable by the taxpayer, but to the extent that the interest payable by the taxpayer is in excess of the amount allowed by the Treasurer hereunder, it shall not be allowed as a deduction and the rate of interest allowed shall not in any case exceed the rate stipulated for in the bond, debenture, mortgage, note, agreement or other similar document, whether with or without security, by virtue of which the interest is payable;

## (c) Two thousand dollars in the case of

- (i) A married person; Married person.
  - (ii) A widow or widower with a son or daughter under twenty-one years of age who is dependent upon such parent for support, or if twenty-one years of age or over is likewise dependent on account of mental or physical infirmity; Widow or widower with dependent child.
  - (iii) An individual who maintains a self-contained domestic establishment and who actually supports therein one or more individuals connected with him by blood relationship, marriage or adoption; Person maintaining self-contained domestic establishment and supporting therein a relative.
  - (iv) A minister or clergyman in charge of a diocese, congregation or parish, whose duties require him to maintain at his own and sole expense a self-contained domestic establishment and who employs therein on full time a house-keeper or servant; Clergyman maintaining self-contained domestic establishment.
- (d) One thousand dollars in the case of all other persons; Other persons.  
and
- (e) Four hundred dollars for each child or grandchild (except one such child or grandchild on whose account the taxpayer is entitled to exemption under paragraphs (c) (ii) or (c) (iii) hereof) of the taxpayer, under twenty-one years of age and dependent upon the taxpayer for support or twenty-one years of age or over and likewise dependent on account of mental or physical infirmity; Dependent children and grandchildren.
- (f) Travelling expenses, including the entire amount expended for meals and lodgings, while away from home in the pursuit of a trade or business; 1936, c. 1, s. 5 (1), cls. (a-f). Travelling expenses.
- (g) The amount, not exceeding \$300, actually retained by an employer from the remuneration of any taxpayer in connection with an employees' super-annuation or pension fund or plan; 1937, c. 1, s. 2 (1). Deductions for super-annuation or pension fund.
- (h) In case of a trust established in connection with, or a corporation incorporated for the administration of an employees' superannuation or pension fund or plan, the income from the investment of the super-annuation or pension funds shall be exempt if the Election for pension fund income exemption.

trustee or corporation so elects. In such event the exemption provided for by the next preceding paragraph shall not be allowed but any payment to an employee out of the fund shall, notwithstanding anything contained in this Act, be exempt according to the proportion that the sum of the amounts paid by the employee into the fund after the effective date of the election bears to the total amount paid by him into the fund;

Election shall be effected by writing, signed by the trustee or corporation in control of the fund.

Notwithstanding the date of election, the Treasurer shall have full power to determine from what date the election shall take effect.

Dependent  
relatives.

- (i) The amount not exceeding four hundred dollars actually expended by a taxpayer for the support of each of the following persons (except one such person on whose account the taxpayer is entitled to exemption under paragraph (c) (iii) hereof) who are dependent upon him for support;

(a) A parent or grandparent dependent on account of mental or physical infirmity;

(b) A brother or sister under twenty-one years of age or twenty-one years of age or over if dependent on account of mental or physical infirmity;

Charitable  
donations.

- (j) The amount allowed as an exemption, by way of charitable donation, under the *Income War Tax Act* (Canada) for the corresponding period;

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\$1,200.00  
of annuity  
exempt.

- (k) Twelve hundred dollars only, being income derived from annuity contracts with the Government of Canada or like annuity contracts issued by any Provincial Government, or any company incorporated or licensed to do business in Canada;

Provided that, in the case of a husband and wife each having annuity income, the exemption herein provided shall not exceed twelve hundred dollars between them in respect of such annuity income and the exemption may be taken by either the husband or the wife or apportioned between them by agreement or by the Treasurer;

And provided, further, that the income arising out of annuity contracts entered into prior to the 26th of May, 1932, shall continue to be exempt as

theretofore provided by section three of chapter twenty-four of the Statutes of Canada for 1930;

And provided, further, that where a husband purchases an annuity for his wife or a wife for her husband, the income therefrom shall be taxed as income of the purchaser;

And provided further that annuity income shall not be excluded for purposes of determining the exemptions provided for in subsection two of section five of this Act.

The decision of the Treasurer in respect of any question arising under paragraphs (i), (j) and (k) hereof shall be final and conclusive.

- (l) Interest paid in respect of Succession Duties or inheritance taxes; Succession duty interest.
- (m) The tax payable under the *Income War Tax Act* (Canada) in respect of the income of the year; Dominion Income Tax. R.S.C., c. 97. provided, however, that such tax paid or payable by any non-resident person carrying on business in Ontario shall be that portion of the tax payable under the *Income War Tax Act* (Canada) which the Commissioner of Income Tax may determine arises by reason of the business done in Ontario. 1936, c. 1, s. 5 (1), cls. (h-m).

(2) Where a husband and wife have each a separate income in excess of one thousand dollars, whether taxable or not, each shall receive an exemption of one thousand dollars in lieu of the exemption set forth in paragraph (c) of subsection one. Incomes of husband and wife.

(3) The exemption for any dependent child may be taken by either parent under arrangement between themselves; and in the event of any dispute arising between them the said exemption shall be allowed to the father of the said child. Exemption for dependent children; who may take. 1936, c. 1, s. 5 (2, 3).

(4) (a) The exemption or deduction provided by paragraph m of subsection 1 shall not apply to the tax payable in respect of that portion of the total income of a person which is deemed to be distributed to him by a personal corporation where such personal corporation is incorporated under the laws of a country or state outside of Canada or has its head office outside of Canada. Where deduction not to apply.

(b) The amount of tax payable by any such person under the *Income War Tax Act* (Canada) which shall not be allowed as an exemption or deduction shall be the difference between the total amount of the tax payable by such person R.S.C., c. 97.



under the *Income War Tax Act* (Canada) and the amount of tax which would be payable under the *Income War Tax Act* (Canada) calculated upon the income of such person exclusive of the income deemed to be distributed to him by such personal corporation. 1937, c. 1, s. 2 (2).

#### DEDUCTIONS FROM INCOME NOT ALLOWED.

Deductions  
not  
allowed.

**6.—(1)** In computing the amount of the profits or gains to be assessed, a deduction shall not be allowed in respect of

Expenses  
not laid  
out to  
earn  
income.

(a) disbursements or expenses not wholly, exclusively and necessarily laid out or expended for the purpose of earning the income;

Capital  
outlays or  
losses, etc.

(b) any outlay, loss or replacement of capital or any payment on account of capital or any depreciation, depletion or obsolescence, except as otherwise provided in this Act;

Annual  
value of  
property.

(c) the annual value of property, real or personal, except rent actually paid for the use of such property, used in connection with the business to earn the income subject to taxation;

Reserves,  
contingent  
accounts  
or sinking  
funds.

(d) amounts transferred or credited to a reserve, contingent account or sinking fund, except such an amount for bad debts as the Treasurer may allow and except as otherwise provided in this Act;

Carrying  
charges.

(e) carrying charges or expenses of unproductive property or assets not acquired for the purposes of a trade, business or calling or of a liability not incurred in connection with a trade, business or calling;

Personal  
expenses.

(f) personal and living expenses;

Application  
of carrying  
charges.

(h) carrying charges of property the income from which is exempt, except to the extent that such carrying charges exceed the exempt income;

Losses  
sustained  
abroad.

(j) net losses sustained in any taxation period in the United Kingdom of Great Britain and Northern Ireland or any of the British Dominions (other than Canada) or any British possession or dependency, or in any foreign country, after the taxpayer has in respect of any such period once elected to claim and has received, reciprocal tax relief under the *Income War Tax Act* (Canada) for taxes paid to any such country in respect of profits earned therein.



(2) The Treasurer may disallow as an expense the whole or any portion of any salary, bonus or commission which in his opinion is in excess of what is reasonable for the services performed. 1936, c. 1, s. 6.

Limitation  
of certain  
expenses  
charged  
against  
profits.

8.—(1) A taxpayer shall be entitled to deduct from the tax that would otherwise be payable by him under this Act,

Income tax  
paid in any  
portion of  
British  
Empire  
or in any  
foreign  
country.

- (a) the amount paid to Great Britain or any of its self-governing colonies or dependencies for income tax in respect of the income of the taxpayer derived from sources therein, except the tax paid under the *Income War Tax Act* (Canada); and

R.S.C.,  
c. 97.

- (b) the amount paid to any foreign country for income tax in respect of the income of the taxpayer derived from sources therein, if such foreign country in imposing such tax allows a similar credit to persons in receipt of income derived from sources within Canada. 1936, c. 1, s. 8 (1); 1937, c. 1, s. 3.

(2) Such deduction shall not at any time exceed the amount of tax which would otherwise be payable under the provisions of this Act, in respect of the said income derived from sources within Great Britain or any of its self-governing colonies or dependencies or any foreign country.

Limit of  
deduction.

(3) Any such deduction shall be allowed only if the taxpayer furnishes satisfactory evidence showing the amount of tax paid and the particulars of income derived from sources within Great Britain or any of its self-governing colonies or dependencies or any foreign country.

Evidence  
by taxpayer.

(4) A Minister, High Commissioner, officer, servant or employee of the Government of Canada or an agent general for any of the provinces of Canada, or any officer, servant or employee thereof, resident outside of Canada, shall be entitled to deduct from the tax that would otherwise be payable by him under this Act the amount paid as income tax to the government of the country in which he resides. 1936, c. 1, s. 8 (2-4).

Non-resident  
Canadian  
officials  
allowance.

### PART III.

#### CHARGING PROVISIONS.

##### PERSONS TAXABLE.

9. There shall be assessed, levied and paid upon the income during the preceding year of every person

Persons  
liable to  
income tax.

- (a) residing or ordinarily resident in Ontario during such year; or
- (b) who sojourns in Ontario for a period or periods amounting to one hundred and eighty-three days during such year; or
- (c) who is employed in Ontario during such year; or
- (d) who, not being resident in Ontario, is carrying on business in Ontario during such year; or
- (e) who, not being resident in Ontario, derives income for services rendered in Ontario during such year, otherwise than in the course of regular or continuous employment, for any person resident or carrying on business or corporation carrying on business in Ontario; or
- (f) who, before his appointment was a resident of Ontario and is now or was during such year or any part thereof or hereafter becomes a Minister, High Commissioner, officer, servant or employee of the Government of Canada, or an agent general for any of the provinces of Canada, or any officer, servant or employee thereof, resident outside of Canada, except upon income arising from his official position,

a tax at the rates set forth in the First Schedule of this Act upon the amount of income in excess of the exemptions provided in this Act. 1936, c. 1, s. 9.

#### PART IV.

##### SPECIAL PROVISIONS RELATING TO THE INCIDENCE OF THE TAX.

##### INCOME FROM CHIEF BUSINESS.

Income  
from chief  
occupation.

**10.—(1)** In any case the income of a taxpayer shall be deemed to be not less than the income derived from his chief position, occupation, trade, business or calling.

Which  
is chief  
occupation.

(2) Where a taxpayer has income from more than one source by virtue of filling or exercising more than one position, occupation, trade, business or calling, the Treasurer shall have full power to determine which one or more, or which

combination thereof shall, for the purpose of this Act, constitute the taxpayers' chief position, occupation, trade, business or calling, and the income therefrom shall be taxed accordingly.

(3) The determination of the Treasurer exercised pursuant hereto shall be final and conclusive. 1936, c. 1, s. 10. Final determination

#### INCOME FROM ESTATES AND TRUSTS.

**11.**—(1) The income, for any taxation period, of a beneficiary of any estate or trust of whatsoever nature shall be deemed to include all income accruing to the credit of the taxpayer whether received by him or not during such taxation period. 1936, c. 1, s. 11 (1). Income from an estate or accumulating in trust.

(2) Income accumulating in trust for the benefit of unascertained persons, or of persons with contingent interests shall be taxable in the hands of the trustee or other like person acting in a fiduciary capacity, as if such income were the income of a person, provided that he shall not be entitled to the exemptions provided by paragraphs (c), (d), (e) and (i) of subsection one of section five of this Act, and provided further that should more than one such trust be created during the year 1936 or any fiscal period ending therein or at any time thereafter, substantially all the assets of which are received from one person (whether or not administered by the same or different trustees) and be so conditioned as to fall in ultimately in favour of one beneficiary, class or group of beneficiaries, then the income of the several trusts shall be taxed as one trust in the hands of such one of the trustees as the Treasurer may determine. 1936, c. 1, s. 11 (2); 1937, c. 1, s. 4. Trusts for unascertained person.  
Trusts in favour of same beneficiaries

(3) In determining the taxable income of deceased persons, interest, rents, royalties, annuities and other income payable periodically shall be deemed to have accrued by equal daily increment during and within the period for or in respect of which such income arose and shall be apportionable in respect of the period of time accordingly and that portion accrued to the date of death shall be taxed as income of the deceased. Accruals to date of death.

(4) Dividends received by an estate or trust and capitalized shall be taxable income of the estate or trust. Dividends.

(5) Any amount paid by an estate or trust for the upkeep, maintenance and taxes of any property which, under the terms of the will or trust is required to be maintained for the use of any tenant for life, and which in any case is in excess Life beneficiaries

of such an amount as the Treasurer may prescribe, shall be deemed to be taxable income received by such tenant for life. 1936, c. 1, s. 11 (3-5).

#### DIVIDENDS.

Taxable in  
year paid.

**12.**—(1) Dividends or shareholders' bonuses shall be taxable income of the taxpayer in the year in which they are paid or distributed.

Payments on  
income  
bonds or  
income de-  
bentures.

(2) For the purpose of this Act any annual amount received in respect of an income bond or income debenture shall be deemed to be a dividend. 1936, c. 1, s. 12.

#### UNDIVIDED PROFITS OF CORPORATION.

Undis-  
tributed  
profits of  
corporations.

**13.** In the case of any corporation which has undivided or undistributed profits, if the Treasurer is of opinion that the accumulation of such profits is in excess of what is reasonably required for the purposes of the business, he may notify the corporation by registered letter of the amount of such accumulation which he considers excessive, and if such amount is not distributed during the fiscal period of the corporation in which notice is given, the shareholders shall be deemed to have received such amount of profits as a dividend on the last day of the said fiscal period and shall be taxable accordingly. 1936, c. 1, s. 13.

#### INDIRECT DISTRIBUTION OF SURPLUS.

Indirect  
distribution  
of surplus.

**14.** Where a person owning shares of a corporation transfers such shares or a portion thereof to a second corporation acting as his agent, trustee or attorney or promoted at his instance or controlled by him, which second corporation subsequently receives a dividend from the first-mentioned corporation and applies the income thus received, in whole or in part, directly or indirectly

- (a) in payment of the shares purchased by the second corporation from such person;
- (b) in the discharge of any liability incurred to such person by reason of and in connection with the purchase of such shares; or
- (c) in the discharge of a loan obtained by the second corporation for the purpose of paying for such shares.

then such person shall be taxable in respect of such dividend as if he had received it in the year that the first-mentioned corporation declared the dividend. 1936, c. 1, s. 14.

## CAPITALIZATION OF UNDISTRIBUTED INCOME.

**15.** When, as a result of the reorganization of a corporation or the readjustment of its capital stock, the whole or any part of its undistributed income is capitalized, the amount capitalized shall be deemed to be distributed as a dividend during the year in which the reorganization or readjustment takes place and the shareholders of the said corporation shall be deemed to receive such dividend in proportion to their interest in the capital stock of the corporation or in the class of capital stock affected. 1936, c. 1, s. 15.

Corporate surplus plus taxable to shareholder on capitalization.

## CAPITAL STOCK REDUCTIONS OR REDEMPTIONS.

**16.**—(1) Where a corporation having undistributed income on hand reduces or redeems any class of the capital stock or shares thereof the amount received by any shareholder by virtue of the reduction shall, to the extent to which such shareholder would be entitled to participate in such undistributed income on a total distribution thereof at the time of such reduction, be deemed to be a dividend and to be income received by such shareholder.

Capital stock reductions.

(2) The provisions of this section shall not apply to any class of stock which, by the instrument authorizing the issue of such class, is not entitled on being reduced or redeemed to participate in the assets of the corporation beyond the amount paid up thereon plus any fixed premium and a defined rate of dividend nor to a reduction of capital effected before the sixteenth day of April, one thousand nine hundred and twenty-six. 1936, c. 1, s. 16.

Application.

## REDEMPTION OF SHARES AT PREMIUM.

**17.** Where a corporation redeems its shares at a premium, the premium shall be deemed to be a dividend and to be income received by the shareholder. 1936, c. 1, s. 17.

Premiums taxable.

## LOANS TO SHAREHOLDERS.

**18** —(1) For the purposes of this Act, any loan or advance by a corporation, or appropriation of its funds to a shareholder thereof, other than a loan or advance incidental to the business of the corporation shall be deemed to be a dividend to the extent that such corporation has on hand undistributed income and such dividend shall be deemed to be income received by such shareholder in the year in which made.

Loans to shareholders.



Application. (2) This section shall not apply to a loan or advance made by a corporation lawfully empowered to make loans to its shareholders. 1936, c. 1, s. 18.

#### DISTRIBUTION ON WINDING-UP OR REORGANIZATION.

Surplus  
distribution  
taxable.

**19.** On the winding-up, discontinuance or reorganization of the business of any incorporated company, the distribution in any form of the property of the company shall be deemed to be the payment of a dividend to the extent that the company has on hand undistributed income.

When  
surplus  
distribution  
not taxable.

Provided, however, that this section shall not apply to the distribution of the property of a private investment holding company to the extent that its undistributed income is made up of income from British and foreign securities and interest bearing securities of Canadian debtors when the business of such holding company is and has been carried on in Ontario, and all of its shares (less directors' qualifying shares) are and have been beneficially owned since its incorporation by a non-resident individual, or by such an individual and his wife or any member of his family, or by any combination of them. In determining the extent to which the undistributed income of any such private investment holding company on hand at the date of winding-up is made up of income received by way of dividends from Canadian companies, all dividends or disbursements of such holding company which have been paid or made prior to the date of winding-up shall be deemed to have been paid out of income received from British and foreign securities and interest bearing securities of Canadian debtors. 1936, c. 1, s. 19.

Undis-  
tributed  
income  
deemed  
to be  
reduced.

**20.** The undistributed income of a corporation shall, for the purposes of sections fifteen, sixteen, seventeen, eighteen and nineteen, be deemed to be reduced by the amount deemed to be received by the shareholders as a dividend by virtue of the provisions of the said sections fifteen, sixteen, seventeen, eighteen and nineteen. 1936, c. 1, s. 20.

#### PERSONAL CORPORATIONS.

Income of  
personal  
corporation  
distributed.

**21.—(1)** The income of a personal corporation, whether the same is actually distributed or not, shall be deemed to be distributed on the last day of each year as a dividend to the shareholders, and the said shareholders shall be taxable each year as if the same had been distributed in the proportions hereinafter mentioned.

(2) Each shareholder's taxable portion of the income of the corporation, deemed to be distributed to him as above provided for, shall be such percentage of the income of the corporation, as the value of all property transferred or loaned by such shareholder or his predecessor in title to the corporation is of the total value of all property of the corporation acquired from the shareholders.

Shareholder's taxable portion.

(3) The value of the property transferred by each shareholder or his predecessor in title shall be the fair value as at the date of the transfer of such property to the corporation, and the total value of the property of the corporation acquired from its shareholders shall, for the purpose of determining the percentage referred to in the last preceding subsection, be taken as at the date of acquisition thereof by the corporation; and in ascertaining values under this subsection, regard shall be had to all the facts and circumstances, and the decision of the Treasurer in that respect shall be final and conclusive.

Valuation of property transferred.

(4) Where one personal corporation is succeeded by, or transfers its property to, another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second or succeeding corporation the property which they transferred to the corporation first mentioned and where any person acquires the control of a personal corporation he shall be deemed to have transferred to such corporation the property transferred thereto by his vendor.

One personal corporation succeeding another.

(5) Where the fiscal period of the personal corporation does not coincide with the calendar year, the income shall be deemed to be distributed as a dividend on the last day of the fiscal period.

Fiscal period.

(6) Dividends actually declared by a personal corporation after the thirty-first day of December, one thousand, nine hundred and twenty-four, shall be deemed to be paid out of income earned after said thirty-first day of December, one thousand, nine hundred and twenty-four, so far as the same is available and to that extent shall not be liable to further taxation in the hands of the shareholders.

Personal corporation dividends.

(7) The shareholder of a personal corporation who controls such corporation shall file with his income tax return a statement of the assets, liabilities and income of the personal corporation.

Shareholders to file statement of personal corporations.

Failure to  
file state-  
ment,  
penalty.

(8) Any such shareholder who fails to file the statement required by subsection seven at the time and in the manner prescribed, shall be taxed on double the amount of his proportion of the income of such personal corporation. 1936, c. 1, s. 21.

#### FAMILY CORPORATIONS.

Family  
corporations.

R.S.C.,  
c. 97.

**22.** The income for fiscal periods ending prior to or during the calendar year 1932 of a family corporation as defined by the *Income War Tax Act* (Canada) to the extent that it has been taxed in the hands of the shareholders under the provisions of the said Act shall not, on distribution by way of dividend, be subject to tax under the provisions of this Act. 1936, c. 1, s. 22.

#### INCOME IN ONTARIO OF NON-RESIDENTS.

Non-resident  
carrying on  
business in  
Ontario.

**24.** The income liable to taxation under this Act of every person residing outside of Ontario, who is carrying on business in Ontario, either directly or through or in the name of any other person, shall be the net profit or gain arising from the business of such person in Ontario. 1936, c. 1, s. 24.

Casual or  
temporary  
employment  
in Ontario.

**25.** The income liable to taxation under this Act of every person residing outside of Ontario, who derives income for services rendered in Ontario, otherwise than in the course of regular or continuous employment, for any person resident or carrying on business in Ontario, or for any corporation carrying on business in Ontario, shall be the income so earned by such person in Ontario. 1936, c. 1, s. 25.

Dividends of  
non-resident  
employees  
taxable.

**25a.** The income liable to taxation under the Act of every person residing outside of Ontario who renders services in Ontario as a director, officer, or employee of any corporation carrying on business in Ontario, the majority of the voting shares of which are owned or controlled by any such person, or any combination of them, or any trustee acting on his or their behalf, shall include dividends and interest received, by him or them or his or their trustee, from the corporation with which he is so associated or any subsidiary thereof and shall be taxable against such person. 1936, c. 1, s. 25a.

#### INCOME FROM OPERATIONS IN ONTARIO.

Income  
partly  
arising from  
creative  
operations  
within  
Ontario  
taxable.

**26.—(1)** Where a non-resident person produces, grows, mines, creates, manufactures, fabricates, improves, packs, preserves or constructs, in whole or in part, anything within Ontario and exports the same without sale prior to the export thereof, he shall be deemed to be carrying on business in Ontario and to earn within Ontario a proportionate part of any profit ultimately derived from the sale thereof outside of Ontario

(2) The Treasurer shall have full discretion as to the manner of determining such proportionate part. 1936, c. 1, s. 26. Treasurer's discretion.

#### PARTNERSHIPS.

**30.** Where two or more persons are carrying on business in partnership the partnership as such shall not be liable to taxation but the shares of the partners in the income of the partnership, whether withdrawn or not during the taxation year shall, in addition to all other income, be income of the partners and taxed accordingly. 1936, c. 1, s. 30. Partnerships.

**31.—**(1) Where a husband and wife are partners in any business the total income from the business may in the discretion of the Treasurer be treated as income of the husband or the wife and taxed accordingly. Husband and wife as partners.

(2) Where a husband derives income as an employee of his wife or *vice versa* any remuneration paid to the husband or wife shall not be chargeable as an expense of the business in determining the net profit thereof. Husband or wife as employee or employer.

(3) Where the husband or wife of a partner in any business receives any salary or any other remuneration therefrom, the portion of the remuneration paid that bears a similar proportion to the interest of the wife or husband, as the case may be, in the partnership business shall be added to the income of the said wife or husband and taxed accordingly. 1936, c. 1, s. 31. Husband or wife as employee of a partnership in which husband or wife is a partner.

#### TRANSFERS TO EVADE TAXATION.

**32.—**(1) Where a person transfers property to his children whether the transfer is absolute and irrevocable, in trust or otherwise, such person shall nevertheless be liable to be taxed on the income derived from such property or from property substituted therefor as if such transfer had not been made; unless the Treasurer is satisfied that such transfer was not made for the purpose of evading the taxes imposed under this Act. Transfer of property to children.

(2) Where a husband transfers property to his wife, or *vice versa*, whether the transfer is absolute and irrevocable, in trust or otherwise, the husband or the wife, as the case may be, shall nevertheless be liable to be taxed on the income derived from such property or from property substituted therefor as if such transfer had not been made. 1936, c. 1, s. 32. Transfer of property to husband or wife.



Transfers  
in trust.

(3) Where a person transfers property in trust and provides that the corpus of the trust shall revert either to the donor or to such persons as he might determine at a future date or where a trust provides that during the lifetime of the donor no disposition or other dealing with the trust property shall be made without the consent, written or otherwise, of the donor, such person shall nevertheless be liable to be taxed on the income derived from the property transferred in trust or from property substituted therefor as if such transfer had not been made unless the Treasurer is satisfied that the contingencies expressed in the trust deed are not for the purpose of evading taxes on income imposed under this Act. 1937, c. 1, s. 5.

## PART V.

### RETURNS.

#### GENERAL.

Annual  
returns.

**33.**—(1) Every person liable to taxation under this Act shall, on or before the thirtieth day of April in each year, without any notice or demand and any person whether liable to taxation hereunder or not, upon receipt of a notice or demand in writing from the Controller of Revenue or the Commissioner of Income Tax, or any officer of the Government of Canada on behalf of the Government of Ontario or any officer of the Government of Ontario authorized to make such demand, deliver to the Treasurer or the Minister a return in such form as the Treasurer or the Minister may prescribe, of his total income during the last preceding year.

Address to  
be stated.

(2) In such return the taxpayer shall state an address in Ontario to which all notices and other documents to be mailed or served under this Act may be mailed or served. 1936, c. 1, s. 33.

#### PARTNERS AND PROPRIETORS OF BUSINESS.

Partnership  
fiscal  
periods.

**34.** A member of a partnership or the proprietor of a business whose fiscal period or periods is other than the calendar year shall make a return of his income and have the tax payable computed upon the income from the business for the fiscal period or periods ending within the calendar year for which the return is being made, but his return of income derived from sources other than his business shall be made for the calendar year. 1936, c. 1, s. 34.



## GUARDIANS AND OTHER LEGAL REPRESENTATIVES.

**36.**—(1) If a person is unable for any reason to make the return hereinbefore required, such return shall be made by the guardian, curator, tutor or other legal representative of such person, or if there is no such legal representative, by someone acting as agent for such person. Return by guardian, legal representative, etc.

(2) In the case of the estate of any deceased person, the return shall be made by the executor, administrator or heir of such deceased person. Deceased persons.

(3) If there is no person to make a return under the provisions of this section, the return shall be made by such person as may be required by the Treasurer to make such return. 1936, c. 1, s. 36. Treasurer's power.

## TRUSTEES IN BANKRUPTCY AND OTHER FIDUCIARIES.

**37.** Every trustee in bankruptcy, assignee, liquidator, curator, receiver, administrator, heir, executor and such other like person or legal representative administering, managing, winding-up, controlling, or otherwise dealing with the property, business or estate of any person who has not made a return for any taxable period or for any portion of a taxable period for which such person was required to make a return in accordance with the provisions of this Act shall make such return. 1936, c. 1, s. 37. Trustees, assignees, executors, etc., to make returns

## INFORMATION RETURNS.

**39.**—(1) All employers shall make a return of all persons in their employ receiving any salary or other remuneration in excess of such an amount as the Treasurer may prescribe. Returns by employers.

(2) All corporations and associations shall make a return of all dividends and bonuses paid to shareholders and members. Returns of dividends, etc.

(2a) All debtors paying interest on any fully registered bonds or debentures shall make a return of all interest so paid. Returns of interest paid on fully registered bonds and debentures.

(3) All persons and corporations in whatever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or income of any taxpayer, shall make and render a separate and distinct return to the Treasurer of such gains, profits or income, containing the name and address of each taxpayer. Returns by agents.

Information  
returns.  
Last day of  
February.

(4) Such returns shall be delivered to the Treasurer on or before the last day of February in each year, without any notice or demand being made therefor, and in such form as the Treasurer may prescribe.

Information  
to be given  
as to  
payments.

(5) All persons and corporations in whatever capacity acting, making payment of interest, royalties, rents, annuities, compensation, remuneration or other fixed or determinable amounts, such as interest upon bonds, mortgages, deeds of trust or other similar obligations, and also payments under contracts, whether written or verbal, relating to the buying and selling and otherwise dealing in stocks, bonds, debentures, mortgages, hypothecs, and other similar securities, shall without any notice or demand being made therefor, render on such forms and at such times as the Treasurer may prescribe a true and accurate return of the amounts paid in excess of such sums as the Treasurer decides, together with the names and addresses of the recipients. For the purposes of this subsection payment shall include amounts credited to the creditor during the fiscal period of the debtor. 1936, c. 1, s. 39.

#### EXTENSION OF TIME FOR RETURNS.

Enlarging  
time for  
returns.

**40.** The Treasurer may at any time enlarge the time for making any return. 1936, c. 1, s. 40.

#### DEMAND FOR ADDITIONAL INFORMATION.

Demand for  
additional  
information.

**41.**—(1) If the Treasurer, in order to enable him to make an assessment or for any other purpose, desires any information or additional information or a return from any person or corporation who has not made a return, or a complete return, he may, by registered letter, demand from such person or corporation such information, additional information or return.

Thirty  
days' delay.

(2) Such person or corporation shall deliver to the Treasurer such information, additional information or return within thirty days from the date of mailing of such registered letter.

Compliance  
of Treasurer  
with Act  
to be  
proved by  
affidavit.

(3) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Treasurer with the provisions of this section as well as default hereunder shall be sufficiently proved in any court of law by the affidavit of the Controller of Revenue, Commissioner of Income Tax or of any officer of the Treasury Department of the Province of Ontario.

Copy of  
letter.

(4) Such affidavit shall have attached thereto as an exhibit a copy or duplicate of the said letter. 1936, c. 1, s. 41.

## PRODUCTION OF DOCUMENTS.

**42.** The Treasurer may require the production, or the production on oath, by the taxpayer or by his agent or officer, or by any person or corporation holding, or paying, or liable to pay, any portion of the income of any taxpayer, of any letters, accounts, invoices, statements and other documents. 1936, c. 1, s. 42.

Production of letters, accounts, etc.

**43.** The Treasurer may require and demand the production, or the production on oath, by any person or corporation or the agent, or officer thereof, of any letters, accounts, invoices, statements financial or otherwise, books or other documents, held by such person, corporation, agent, or officer, for the purpose of arriving at the tax believed to be payable by any other person, and the same shall be produced within thirty days from the date of mailing of such demand. 1936, c. 1, s. 43.

Production of letters, books, etc., by person, corporation or agent or officer to prove tax payable by another.

## INFORMATION FROM RECIPIENTS OF INCOME.

**44.** Every person or corporation who, in whatever capacity acting is in receipt of any money, thing of value, or of profits, or gains arising from any source, of or belonging to any other person shall, when required to do so by notice from the Treasurer, prepare and deliver to the Treasurer any information required, within thirty days from the date of the mailing of such notice. 1936, c. 1, s. 44.

Persons in receipt of money, etc., of another to produce information required.

## INQUIRY AS TO INCOME OF ANY TAXPAYER.

**45.** Any officer authorized thereto by the Treasurer may make such inquiry as he may deem necessary for ascertaining the income of any taxpayer, and for the purposes of such inquiry such officer shall have all the powers and authority of a commissioner appointed under *The Public Inquiries Act*. 1936, c. 1, s. 45.

Inquiry as to income.

Rev Stat., c. 19.

## KEEPING OF BOOKS OR ACCOUNTS.

**46.** If a taxpayer fails or refuses to keep adequate books or accounts for income tax purposes, the Treasurer may require the taxpayer to keep such records and accounts as he may prescribe. 1936, c. 1, s. 46.

Books or accounts must be kept.

## RETURN OR INFORMATION NOT BINDING ON TREASURER.

**47.** The Treasurer shall not be bound by any return or information supplied by or on behalf of a taxpayer, and notwithstanding such return or information, or if no return has been made, the Treasurer may determine the amount of the tax to be paid by any person. 1936, c. 1, s. 47.

Treasurer not bound by return.

## PART VI .

## PAYMENT OF TAX.

## INSTALMENT OF TAX WITH RETURN.

Portion of tax to be forwarded with return; balance may be paid by instalments with interest.

**48.**—(1) Every person liable to pay any tax under this Act shall estimate the amount of tax payable by him and shall send with the return of the income upon which such tax is payable, not less than one-third of the amount of such tax or such other portion as the Lieutenant-Governor in Council may determine and may pay the balance within four months thereafter together with interest at the rate of five per centum per annum, or such other rate as the Lieutenant-Governor in Council may determine, upon such balance from the last day prescribed for making such return to the time payment is made. 1937, c. 1, s. 6.

Payment to Treasurer or Receiver-General.

(2) All taxes, interest and penalties shall be paid to the Treasurer or to the Receiver-General of Canada for and on account of the Treasurer and shall form part of the Consolidated Revenue Fund of Ontario. 1936, c. 1, s. 48 (2).

## ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

Penalty for short payment.

**49.** If any person liable to pay any tax under this Act pays less than one-third, or such other portion as may be determined by the Lieutenant-Governor in Council under the provisions of section 48, of the tax as estimated by him, or should he fail to make any payment at the time when the filing of his return is due, or fail to pay the balance of the tax as estimated by him within four months therefrom, he shall pay, in addition to the interest of five per centum per annum provided for by section 48, additional interest at the rate of three per centum per annum, or such other rate as the Lieutenant-Governor in Council may determine, upon the deficiency from the date of default to the date of payment. 1937, c. 1, s. 7.

## OBLIGATION OF TRUSTEES IN BANKRUPTCY AND OTHER FIDUCIARIES.

Fiduciaries to pay before distribution

**50.** Every person or corporation who is required by section thirty-seven of this Act to make a return of income shall pay any tax and interest and penalties assessed and levied with respect to such income before making any distribution of the property, business or estate which he is administering, managing, winding-up or otherwise controlling or dealing with. 1936, c. 1, s. 50.



**51.**—(1) Every trustee in bankruptcy, assignee, administrator, executor and other like person, before distributing any assets under his control shall obtain a certificate from the Treasurer certifying that no unpaid assessment of income tax, interest and penalties properly chargeable against the person, property, business or estate, as the case may be, remains outstanding. Fiduciaries to obtain certificate.

(2) Distribution without such certificate shall render the trustee in bankruptcy, assignee, administrator, executor and other like person personally liable for the tax, interest and penalties. 1936, c. 1, s. 51. Personal liability.

#### OVERPAYMENTS.

**53.**—(1) The returns received by the Treasurer shall with all due despatch be checked and examined. Returns examined.

(2) In all cases where such examination discloses that an overpayment has been made by a taxpayer the Treasurer shall make a refund of the amount so overpaid by such taxpayer, except in cases where any instalment or instalments are either due or falling due by such taxpayer, when the amount of the overpayment shall be applied on such instalment or instalments and notice of such action shall be given such taxpayer accompanied by the payment of the balance, if any, of the amount overpaid. 1936, c. 1, s. 53. Refund of over-payments.

### PART VII.

#### ASSESSMENT.

##### NOTICE OF ASSESSMENT.

**54.**—(1) After examination of the taxpayer's return the Treasurer shall send a notice of assessment to the taxpayer verifying or altering the amount of the tax as estimated by him in his return. Notice of assessment.

(2) Any additional tax found due over the estimated amount shall be paid within one month from the date of the mailing of the notice of assessment. 1936, c. 1, s. 54 (1, 2). Payment of additional tax.

(3) Unless otherwise provided, all taxes found due and unpaid shall bear interest at the rate of five per centum per annum, or at such other rate as the Lieutenant-Governor in Council may determine, from the date prescribed for the filing of the return to the date of payment. Interest.



Penalty  
for delay  
in payment.

(4) If the taxpayer fails to pay such additional tax within one month from the date of the mailing of the notice of assessment aforesaid, he shall pay, in addition to the interest provided for by subsection 3, interest at the rate of three per centum per annum, or such other rate as the Lieutenant-Governor in Council may determine, upon the said additional tax from the expiry of the period of one month from the date of the mailing of the said notice of assessment to the date of payment; provided, however, that notwithstanding the date of mailing of any notice of assessment, the additional rate of interest herein provided for shall not be applied until after the expiry of four months from the date when the taxpayer's return was due to be filed. 1937, c. 1, s. 8.

Proviso.

#### CONTINUATION OF LIABILITY FOR TAX.

Continuation  
of  
liability  
for tax.

**55.** Notwithstanding any prior assessment, or if no assessment has been made, the taxpayer shall continue to be liable for any tax and to be assessed therefor and the Treasurer may at any time assess, reassess or make additional assessments upon any person for tax, interest and penalties. 1936, c. 1, s. 55.

#### REFUND OF OVERPAYMENT.

Refund of  
overpayment  
to taxpayer.

**56.** The Treasurer may, at or prior to the issue of the notice of assessment, refund, without application therefor, any overpayment made by the taxpayer, or after the issue of the notice of assessment, provided application in writing is made therefor by the taxpayer within twelve months from the date of payment of the tax or the date at which the notice of assessment was issued. 1936, c. 1, s. 56.

### PART VIII.

#### APPEALS AND PROCEDURE.

##### NOTICE OF APPEAL.

Notice of  
appeal.

**58.—(1)** Any person who objects to the amount at which he is assessed, or who considers that he is not liable to taxation under this Act, may personally or by his solicitor, within one month after the date of mailing of the notice of assessment provided for in section fifty-four of this Act, serve a notice of appeal upon the Treasurer or the Minister.

Notice in  
writing.

(2) Such notice of appeal shall be in writing and shall be served by mailing the same by registered post addressed to the Treasurer or the Minister.

(3) Every such notice shall, as closely as may be, follow the form contained in the Second Schedule of this Act, and shall set out clearly the reasons for appeal and all facts relative thereto. 1936, c. 1, s. 58.

Form of  
notice of  
appeal.

REVIEW OF ASSESSMENT.

59. Upon receipt of the said notice of appeal the Treasurer or the Minister shall duly consider the same and shall affirm or amend the assessment appealed against and shall notify the appellant of his decision by registered post. 1936, c. 1, s. 59.

Decision  
to affirm  
or amend  
assessment.

NOTICE OF DISSATISFACTION.

60.—(1) If the appellant, after receipt of the said decision, is dissatisfied therewith, he may, within one month from the date of the mailing of the said decision, mail to the Treasurer or the Minister by registered post, a notice entitled

Notice of  
dissatisfac-  
tion  
respecting  
the decision..

THE INCOME TAX ACT (ONTARIO).

NOTICE OF DISSATISFACTION.

In re the appeal of.....of the.....of  
.....in the Province of.....,  
stating that he desires his appeal to be set down for trial.

(2) The appellant shall forward therewith a final statement of such further facts, statutory provisions and reasons which he intends to submit to the court in support of the appeal as were not included in the aforesaid notice of appeal, or in the alternative, a recapitulation of all facts, statutory provisions and reasons included in the aforesaid notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal. 1936, c. 1, s. 60.

Statement  
with notice.

SECURITY FOR COSTS.

61.—(1) The party appealing shall thereupon give security in four hundred dollars for the costs of the appeal in a form satisfactory to the Treasurer or the Minister, provided that in lieu of other security the party appealing may pay into court the sum of two hundred dollars in which case such party shall, when paying such sum in, state the purpose for which it is paid in and shall forthwith serve a notice upon the Treasurer or the Minister specifying the fact and purpose of such payment.

Security.

Proceedings  
voided.

(2) Unless such security is furnished by the party appealing within one month after the mailing of the notice of dissatisfaction the appeal and all proceedings thereunder shall become null and void. 1936, c. 1, s. 61.

#### REPLY.

Decision  
upon  
receipt of  
statement  
of facts.

**62.** Upon receipt of the said notice of dissatisfaction and statement of facts, a reply thereto shall be mailed by registered post admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment. 1936, c. 1, s. 62.

#### PROCEEDINGS IN COURT.

Copy of  
documents  
to be filed.

**63.—**(1) Within two months from the date of the mailing of the said reply, the Treasurer or the Minister shall cause to be transmitted to the registrar of the Supreme Court of Ontario or the local registrar of the said court for the county or district in which the appellant resides or carries on business, to be filed in the said court, copies of the following documents:

- (a) The Income Tax Return of the appellant, if any, for the period under review;
- (b) The Notice of Assessment appealed;
- (c) The Notice of Appeal;
- (d) The Decision;
- (e) The Notice of Dissatisfaction;
- (f) The Reply; and
- (g) All other documents and papers relative to the assessment under appeal.

Matter  
deemed  
action.

(2) The matter shall thereupon be deemed to be an action in the said court and shall be set down for trial forthwith by the registrar or local registrar as the case may be and thereafter shall be proceeded with in the same manner as an action commenced in the said court, provided that the court or a judge may at any time prior to the commencement of the trial make such order relating to the delivery of pleadings as may be deemed proper.

Supreme  
Court  
practice to  
govern.

(3) The practice and procedure of the Supreme Court of Ontario, including the right of appeal and the practice and procedure relating to appeals, shall apply to every such action, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the said court. 1936, c. 1, s. 63.

**64.** All subsequent proceedings shall be entitled:

Title of  
cause.

In re *The Income Tax Act* (Ontario), and the appeal of.....  
.....of.....in the Province of.....  
and notice and copies of all further proceedings shall be  
served upon the Treasurer or Minister. 1936, c. 1, s. 64.

**65.**—(1) After an appeal has been set down for trial or hearing as above provided, any fact or statutory provision not set out in the said notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the court or a judge thereof may direct.

Conditional  
limitation  
of evidence.

(2) The court may refer the matter back to the Treasurer or the Minister for further consideration. 1936, c. 1, s. 65.

Matter may  
be referred  
back to  
Treasurer or  
Minister.

**66.** Subject to the provisions of this Act, the Supreme Court of Ontario shall have exclusive jurisdiction to hear and determine all questions that may arise in connection with any assessment made under this Act and in delivering judgment may make any order as to payment of any tax, interest or penalty or as to costs as to the said court may seem right and proper. 1936, c. 1, s. 66.

Jurisdiction  
of court.

**67.** An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issuing of the notice of assessment. 1936, c. 1, s. 67.

Irregu-  
larities not  
to affect  
validity of  
assessment.

**68.** Proceedings before the Supreme Court of Ontario hereunder shall be held in camera upon request made to the court by any party to the proceedings. 1936, c. 1, s. 68.

Proceedings  
in camera.

**69.** If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the person assessed to appeal shall cease and the assessment shall be valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act. 1936, c. 1, s. 69.

Right of  
appeal  
barred.

## PART IX.

### REMEDIES OF CROWN TO RECOVER TAXES, ETC.

#### ACTIONS IN THE COURTS.

**70.** All taxes, interest, penalties and costs assessed or imposed or ordered to be paid under the provisions of this Act, shall be deemed to be a debt due to His Majesty in

Taxes a debt  
due the  
Crown.



right of the Province of Ontario and shall be recoverable as such in the Supreme Court of Ontario or in any other court of competent jurisdiction in the name of His Majesty in right of the Province of Ontario or in such other manner as is in this Act provided. 1936, c. 1, s. 70.

#### COLLECTION FROM THE DEBTOR OF A TAXPAYER.

Collection  
of tax from  
third party.

**72.**—(1) When the Treasurer or the Minister has knowledge or suspects that any person or corporation is or is about to become indebted to a taxpayer he may, by registered letter, demand of such person or corporation that the moneys otherwise payable to the taxpayer be in whole or in part, paid over to the Receiver-General of Canada for and on account of the Treasurer of Ontario on account of said taxpayer's liability under the provisions of this Act.

Receipt  
to be a  
discharge.

(2) The receipt of the Treasurer or the Minister therefor shall constitute a good and sufficient discharge of the liability of such person or corporation to said taxpayer to the extent of the amount referred to in the receipt.

Personal  
liability.

(3) Any person or corporation discharging any liability to a taxpayer after receipt of the registered letter herein referred to shall be personally liable to the extent of the liability discharged as between him and the taxpayer or to the extent of the liability of the taxpayer for taxes, interest and penalties, whichever is the lesser amount. 1936, c. 1, s. 72.

#### DISTRESS.

Distress in  
default of  
payment.

**73.**—(1) If any person not having given notice of appeal neglects or refuses to pay any tax, interest or penalty or instalment of tax due under this Act, the Treasurer or the Minister, on giving ten days' notice by registered mail addressed to the last known place of residence of the taxpayer, may issue a certificate declaring said person to be in default and may authorize any person whom he deems proper upon receipt of such certificate to distrain the goods and chattels of the person so in default.

Sale of  
goods by  
auction.

(2) The distress levied in accordance with this section shall be kept for ten days at the cost and charges of the person neglecting or refusing to pay and if the person aforesaid does not pay the sum due, together with the costs and charges



within the said ten days the goods and chattels distrained shall be sold by public auction.

(3) Except in the case of perishable goods, notice of such sale setting forth the time and place thereof together with a general description of the goods to be sold shall be published at least once in one or more of the local newspapers of general local circulation. <sup>Notice of sale.</sup>

(4) Any surplus resulting from the distress after deduction of the amount owing by the taxpayer and all costs and charges shall be restored to the owner of the goods distrained. <sup>Return of surplus.</sup>

(5) Such goods and chattels of any person in default as would be exempt from seizure under the provisions of *The Execution Act* shall be exempt from distress under this section. <sup>Exemptions Rev. Stat., c. 125.</sup> 1936, c. 1, s. 73.

#### COLLECTION FROM TAXPAYER LEAVING ONTARIO.

**74.**—(1) The Treasurer or the Minister if he suspects that the taxpayer is about to leave Ontario may, for that or any other reason, by registered letter addressed to the taxpayer, demand payment of all taxes, penalties and accrued interest, for which the taxpayer is liable, and the same shall be paid within ten days from the date of mailing of such registered letter, notwithstanding any other provisions in this Act contained. <sup>Demand for payment if taxpayer is leaving Ontario.</sup>

(2) Non-payment of the said tax within the specified time shall render the goods of the taxpayer liable to seizure by the sheriff of the city, county or district in which the goods of the taxpayer are situate. <sup>Seizure of goods upon non-payment.</sup>

(3) A certificate of non-compliance with any such demand signed by the Controller of Revenue or the Commissioner of Income Tax, setting forth the particulars of the demand and placed in the hands of the sheriff, shall be sufficient authority to him to seize sufficient of the goods of the taxpayer to meet the said demand. <sup>Certificate to authorize seizure.</sup>

(4) The sale of such goods and the disposition of the moneys realized shall be conducted in the manner prescribed by the law of the Province of Ontario as if the seizure were made under a writ of execution issued out of the Supreme Court of Ontario. 1936, c. 1, s. 74. <sup>Sale.</sup>

## PART X.

## ADMINISTRATION.

Adminis-  
tration by  
Treasurer.

**75.**—(1) The administration of this Act, the control and management of the collection of the taxes imposed under this Act, and all matters incident thereto, and of the officers and persons employed, shall be vested in the Treasurer.

Regulations  
to exercise  
authorized  
powers.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Treasurer may make regulations necessary for the carrying out of the provisions of this Act. 1936, c. 1, s. 75.

Appoint-  
ment of  
officers to  
administer  
Act  
and their  
salaries.

**76.**—(1) The Lieutenant-Governor in Council may from time to time appoint such officers and other persons as may be necessary to administer the provisions of this Act or any Order-in-Council or regulations made thereunder, and fix salaries and the time and manner of payment thereof.

Agreement  
between  
Treasurer  
and  
Minister.

(2) Notwithstanding anything contained in this Act, upon the approval by the Lieutenant-Governor in Council of an agreement between the Treasurer and the Minister, and subject to its provisions, the Minister and the Commissioner of Income Tax are hereby authorized to exercise in the place and stead, on behalf of, or as agent for the Treasurer and Controller of Revenue, such of the powers and duties imposed upon the Treasurer and the Controller of Revenue under this Act as may be specified in the said agreement.

Expenses.

(3) The Lieutenant-Governor in Council may authorize the Treasurer to pay any expenses that may be incurred by the Minister in carrying out the provisions of this Act. 1936, c. 1, s. 76.

## PART XI.

## OFFENCES AND PENALTIES.

Penalty  
for failure  
to file  
return  
under  
Section 33.

**77.**—(1) Every person failing to deliver a return pursuant to the provisions of section thirty-three within the time limited therefor shall be liable to a penalty of five per centum of the tax payable by such person: Provided, however, that such penalty shall not in any case exceed five hundred dollars.

Other  
returns.

(2) Every person or corporation failing to deliver a return pursuant to the provisions of sections thirty-six to thirty-nine inclusive, within the time limited therefor, shall be liable to a

penalty of ten dollars for each day of default: Provided, however, that such penalty shall not in any case exceed fifty dollars.

(3) In the case of a return by an employer required by Employers. subsection one of section thirty-nine of this Act, the penalty shall be further limited to two dollars for every day of default with a maximum of fifty dollars.

(4) Every person failing to complete the information Returns to be completed. required on the prescribed forms for reporting income as required by section thirty-three of this Act, shall be liable to a penalty of one per centum of the tax payable by such person: Provided, however, that such penalty shall not in any case be less than one dollar and shall not in any case exceed twenty dollars. 1936, c. 1, s. 77.

**78.** In the case of religious, charitable, agricultural and educational institutions and boards of trade and chambers of commerce, default shall not be deemed to have commenced until the expiry of thirty days from the date of the mailing of a demand for a return. 1936, c. 1, s. 78. Time of default in filing returns extended in the case of religious institutions and others.

**79.** For every default in complying with the provisions of sections forty-one to forty-six inclusive, the persons or corporations in default shall each be liable on summary conviction to a penalty of not less than twenty-five dollars for each day during which the default continues. 1936, c. 1, s. 79. Default in complying with provisions of Secs. 41-46.

**80.**—(1) Any person making a false statement in any return whether or not such return is made voluntarily or in compliance with a demand therefor, or in any information required by the Treasurer or the Minister shall be liable on summary conviction to a penalty not exceeding ten thousand dollars or six months' imprisonment, or to both fine and imprisonment. False statement in any returns, etc.

(2) Any information or complaint with respect to any offence against the provisions of this Act may be laid or made within three years from the time when the matter of the information or complaint arose. 1936, c. 1, s. 80. Information or complaint within three years.

**81.**—(1) No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this Act, or allow any such person to inspect or have access to any written statement furnished under the provisions of this Act. Secrecy.

(2) Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding two hundred dollars. 1936, c. 1, s. 81. Penalty.

Information  
to be laid.

**82.** Any person authorized by the Treasurer or the Minister may institute proceedings under this Act. 1936, c. 1, s. 82.

Omitted  
income  
doubled.

**83.**—(1) If any person omits to declare any dividends, rentals, interest, royalties or other like income which, on any inquiry or on information obtained from any person other than the taxpayer, is subsequently duly ascertained to have been received, such person may be assessed as if double the income so omitted from his return had been received.

Estate of  
deceased  
taxpayer.

(2) The estate of a deceased taxpayer shall be liable in respect of any tax arising by reason of any omission so ascertained whether the omission was discovered prior or subsequent to the decease of the taxpayer.

Penalty  
not in sub-  
stitution.

(3) This section shall not be construed as providing for a penalty in substitution for any penalties otherwise provided for in this Act. 1936, c. 1, s. 83.

Other  
penalties.

**84.**—(1) Any person violating any of the provisions of this Act or any regulations made thereunder, for which no other penalty is provided, shall be liable on summary conviction to a penalty not exceeding one thousand dollars.

Application  
of Rev.  
Stat., c. 136.

(2) The penalties imposed by subsections 2 and 3 of section 77 and sections 79, 80, 81 and 84, may be recovered under *The Summary Convictions Act* and shall be payable to the Receiver-General of Canada for and on account of the Treasurer of Ontario. 1936, c. 1, s. 84.

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## FIRST SCHEDULE.

## A.—Rates of tax applicable

Rates  
applicable  
to all  
individuals

On the first \$1,000 of Net Income or any portion thereof in excess of Exemptions  $1\frac{1}{2}$  per centum or

- \$15. upon Net Income of \$1,000; and 2 per centum upon the amount by which the Income exceeds \$1,000 and does not exceed \$2,000 or
- \$35. upon Net Income of \$2,000; and  $2\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$2,000 and does not exceed \$3,000 or
- \$60. upon Net Income of \$3,000; and 3 per centum upon the amount by which the Income exceeds \$3,000 and does not exceed \$4,000 or
- \$90. upon Net Income of \$4,000; and  $3\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$4,000 and does not exceed \$5,000 or
- \$125. upon Net Income of \$5,000; and 4 per centum upon the amount by which the Income exceeds \$5,000 and does not exceed \$6,000 or
- \$165. upon Net Income of \$6,000; and  $4\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$6,000 and does not exceed \$7,000 or
- \$210. upon Net Income of \$7,000; and 5 per centum upon the amount by which the Income exceeds \$7,000 and does not exceed \$8,000 or
- \$260. upon Net Income of \$8,000; and  $5\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$8,000 and does not exceed \$9,000 or
- \$315. upon Net Income of \$9,000; and 6 per centum upon the amount by which the Income exceeds \$9,000 and does not exceed \$10,000 or
- \$375. upon Net Income of \$10,000; and  $6\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$10,000 and does not exceed \$11,000 or
- \$440. upon Net Income of \$11,000; and 7 per centum upon the amount by which the Income exceeds \$11,000 and does not exceed \$12,000 or
- \$510. upon Net Income of \$12,000; and  $7\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$12,000 and does not exceed \$13,000 or
- \$585. upon Net Income of \$13,000; and 8 per centum upon the amount by which the Income exceeds \$13,000 and does not exceed \$14,000 or
- \$665. upon Net Income of \$14,000; and  $8\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$14,000 and does not exceed \$15,000 or



- \$750. upon Net Income of \$15,000; and 9 per centum upon the amount by which the Income exceeds \$15,000 and does not exceed \$16,000 or
- \$840. upon Net Income of \$16,000; and  $9\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$16,000 and does not exceed \$17,000 or
- \$935. upon Net Income of \$17,000; and 10 per centum upon the amount by which the Income exceeds \$17,000 and does not exceed \$18,000 or
- \$1,035. upon Net Income of \$18,000; and  $10\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$18,000 and does not exceed \$19,000 or
- \$1,140. upon Net Income of \$19,000; and 11 per centum upon the amount by which the Income exceeds \$19,000 and does not exceed \$20,000 or
- \$1,250. upon Net Income of \$20,000; and  $11\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$20,000 and does not exceed \$25,000 or
- \$1,825. upon Net Income of \$25,000; and 12 per centum upon the amount by which the Income exceeds \$25,000 and does not exceed \$30,000 or
- \$2,425. upon Net Income of \$30,000; and  $12\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$30,000 and does not exceed \$35,000 or
- \$3,050. upon Net Income of \$35,000; and 13 per centum upon the amount by which the Income exceeds \$35,000 and does not exceed \$40,000 or
- \$3,700. upon Net Income of \$40,000; and  $13\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$40,000 and does not exceed \$45,000 or
- \$4,375. upon Net Income of \$45,000; and 14 per centum upon the amount by which the Income exceeds \$45,000 and does not exceed \$50,000 or
- \$5,075. upon Net Income of \$50,000; and  $14\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$50,000 and does not exceed \$55,000 or
- \$5,800. upon Net Income of \$55,000; and 15 per centum upon the amount by which the Income exceeds \$55,000 and does not exceed \$60,000 or
- \$6,550. upon Net Income of \$60,000; and  $15\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$60,000 and does not exceed \$65,000 or
- \$7,325. upon Net Income of \$65,000; and 16 per centum upon the amount by which the Income exceeds \$65,000 and does not exceed \$70,000 or
- \$8,125. upon Net Income of \$70,000; and  $16\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$70,000 and does not exceed \$75,000 or
- \$8,950. upon Net Income of \$75,000; and 17 per centum upon the amount by which the Income exceeds \$75,000 and does not exceed \$80,000 or

- \$9,800. upon Net Income of \$80,000; and  $17\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$80,000 and does not exceed \$85,000 or
- \$10,675. upon Net Income of \$85,000; and 18 per centum upon the amount by which the Income exceeds \$85,000 and does not exceed \$90,000 or
- \$11,575. upon Net Income of \$90,000; and  $18\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$90,000 and does not exceed \$95,000 or
- \$12,500. upon Net Income of \$95,000; and 19 per centum upon the amount by which the Income exceeds \$95,000 and does not exceed \$100,000 or
- \$13,450. upon Net Income of \$100,000; and  $19\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$100,000 and does not exceed \$110,000 or
- \$15,400. upon Net Income of \$110,000; and 20 per centum upon the amount by which the Income exceeds \$110,000 and does not exceed \$120,000 or
- \$17,400. upon Net Income of \$120,000; and  $20\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$120,000 and does not exceed \$130,000 or
- \$19,450. upon Net Income of \$130,000; and 21 per centum upon the amount by which the Income exceeds \$130,000 and does not exceed \$140,000 or
- \$21,550. upon Net Income of \$140,000; and  $21\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$140,000 and does not exceed \$150,000 or
- \$23,700. upon Net Income of \$150,000; and 22 per centum upon the amount by which the Income exceeds \$150,000 and does not exceed \$175,000 or
- \$29,200. upon Net Income of \$175,000; and  $22\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$175,000 and does not exceed \$200,000 or
- \$34,825. upon Net Income of \$200,000; and 23 per centum upon the amount by which the Income exceeds \$200,000 and does not exceed \$225,000 or
- \$40,575. upon Net Income of \$225,000; and  $23\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$225,000 and does not exceed \$250,000 or
- \$46,450. upon Net Income of \$250,000; and 24 per centum upon the amount by which the Income exceeds \$250,000 and does not exceed \$275,000 or
- \$52,450. upon Net Income of \$275,000; and  $24\frac{1}{2}$  per centum upon the amount by which the Income exceeds \$275,000 and does not exceed \$300,000 or
- \$58,575. upon Net Income of \$300,000; and 25 per centum upon the amount by which the Income exceeds \$300,000 and does not exceed \$325,000 or



## CHAPTER 26.

## The Succession Duty Act.

## 1. In this Act,—

Interpre-  
tation.

- (a) "Aggregate value" shall, whether the deceased was domiciled within or outside Ontario at the time of his death, mean:

"Aggregate  
value."

- (i) the fair market value at the date of the death of the deceased of the property wherever situate passing on the death, and
- (ii) the value as defined by this Act at the date of death of any disposition wherever made where such disposition was made on or after the 1st day of July, 1892,

including bonds, debentures, inscribed stock and other securities of the Province of Ontario issued under any Statute of Ontario exempting them from duty, less the debts, encumbrances and other allowances authorized by section 3; 1937, c. 3, s. 2 (1), *part.*

- (b) "Child" shall include any lawful child of the deceased or any lineal descendant of such child born in lawful wedlock or any person adopted while under the age of twelve years by the deceased as his child or any person to whom the deceased, during the infancy of such person, stood in *loco parentis* for a period of not less than five years or any lineal descendant of such adopted child or person as aforesaid; "Child."
- (c) "Executor" shall include administrator and administrator with the will annexed; "Executor."
- (d) "Interest in expectancy" shall include an estate, income or interest in remainder or reversion and any other future interest whether vested or contingent; "Interest in expectancy."

but shall not include a reversion expectant on the determination of a lease; 1934, c. 55, s. 2 (c-e).

"Member of the family of the deceased."

Rev. Stat.,  
c. 218.

(e) "Member of the family of the deceased" and any phrase of like import shall mean any person coming within the class of "child" as defined by this Act, any person adopted by the deceased under *The Adoption Act*, the spouse and lawful descendant of any such adopted person, the husband or wife of the deceased, the father, mother and any brother or sister of the husband or wife of the deceased, any lawful descendant of such brother or sister, the father, mother and any brother or sister of the deceased, any lawful descendant of such brother or sister, any brother or sister of the father or mother of the deceased, any lawful descendant of such brother or sister, any grandfather or grandmother of the deceased and any son-in-law or daughter-in-law of the deceased; 1937, c. 3, s. 2 (2).

"Passing on the death."

(f) "Passing on the death" shall mean passing either immediately on the death or after an interval, either certainly or contingently, and either originally or by way of substitutive limitation, whether the deceased was at the time of his death domiciled in Ontario or elsewhere; 1934, c. 55, s. 2 (f).

"Property."

(g) "Property" shall include money and real and personal property of every description and income therefrom and every estate and interest in such property and income; 1937, c. 3, s. 2 (1), *part*.

"Treasurer."

(h) "Treasurer" shall mean Treasurer of Ontario. 1934, c. 55, s. 2 (h).

Listed securities.

2.—(1) For the purposes of this Act, the fair market value at the date of the death of the deceased of bonds, debentures, guaranteed investments, shares, stocks and other securities which are listed on recognized exchanges, or if not so listed, on which prices or quotations may be obtained from financial journals, recognized financial reports or licensed brokers or traders, shall be the closing price or quotation so listed or obtained on the day of the death of the deceased or if the death occur on a Sunday or holiday, then on the last preceding business day on which such prices or quotations were so listed or could have been obtained; provided that if in the opinion of the Treasurer the prices or quotations



so listed or obtained were not free from the control of or manipulation by the deceased, his servant, nominee or agent or any member of his family, then such bonds, debentures, guaranteed investments, shares, stocks or other securities may be valued as provided in subsection 2.

(2) For the purposes of this Act the fair market value at the date of the death of the deceased of bonds, debentures, guaranteed investments, shares, stocks and other securities not listed or on which no prices or quotations may be obtained as mentioned in subsection 1 and the fair market value of an interest in any partnership or unincorporated business, shall be the value determined by the Treasurer from the financial position of the company, partnership or unincorporated business as disclosed by the balance sheets and the relative operating and surplus or deficit accounts and such further information or material as the Treasurer may deem necessary for the purposes of this subsection; provided that where the assets of any such company, partnership or unincorporated business consist solely of bonds, debentures, guaranteed investments, shares, stocks or other securities which are listed or on which prices may be obtained, as mentioned in subsection 1, then, for the purposes of this subsection the same shall be valued as provided in subsection 1; provided further that where the assets of any such company, partnership or unincorporated business consist partly of bonds, debentures, guaranteed investments, shares, stocks or other securities which are listed or on which prices may be obtained, as mentioned in subsection 1, then, for the purposes of this subsection the same may, at the discretion of the Treasurer, be valued partly as provided by subsection 1 and partly as provided by this subsection; provided further that no allowance shall be made for any debt for wages, salary or other remuneration due by any company, partnership or unincorporated business in which the deceased, either alone or in combination with any member of his family, was beneficially interested, directly or indirectly, to the extent of more than fifty per centum, to any member of his family except such part as the Treasurer may, in his discretion, deem reasonable or proper. 1937, c. 3, s. 3.

3. In determining the dutiable value of property passing on the death and of a transmission thereof and of a disposition the fair market value of the property passing on the death and of the property with respect to which there was a disposition shall be taken as at the date of death of the deceased, or at such other times as may be specified by this Act, and allowance shall be made for reasonable funeral expenses, debts and encumbrances, and surrogate court fees (not

Unlisted securities.

Dutiable value,—how determined.

including solicitor's charges) and any debt or encumbrance for which an allowance is made shall be deducted from the value of the land or other subject of property liable thereto; but an allowance shall not be made,— 1937, c. 3, s. 4 (1).

No allowance to be made for certain debts and expenses of administration.

- (a) for any debts incurred by the deceased or encumbrances created by him unless such debts or encumbrances were created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and to take effect out of his estate; nor 1934, c. 55, s. 3, cl. (a); 1937, c. 3, s. 4 (2).
- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person unless such reimbursement cannot be obtained; nor
- (c) more than once for the same debt or encumbrance charged upon different portions of the estate; nor
- (d) save as aforesaid, for the expense of the administration of the estate or the execution of any trust created by the will of the deceased or by any instrument made by him in his lifetime; nor
- (e) for any debt or encumbrance, or portion thereof, which, by due process of law, cannot be realized out of the property; 1934, c. 55, s. 3, cls. (b-e).
- (f) for any wages, salary or other remuneration due by the deceased to any member of his family, except such part as the Treasurer may, in his discretion, deem reasonable or proper;
- (g) for any part of any debt which would otherwise be allowed under this section not actually and *bona fide* paid or intended to be paid. 1937, c. 3, s. 4 (3).

Exemption from succession duty.

#### 4. No duty shall be leviable,—

- (a) where the whole value of any property passing to any one person does not exceed \$500; 1934, c. 55, s. 4, cl. (d).
- (b) where the property passing to any one person or the disposition of any property with respect to such person consists wholly of an annuity of not more than \$100 per annum, or of an estate or interest

for life or for a term in any property the yearly income from which does not exceed \$100;

- (c) on property devised or bequeathed to or for the benefit of the Dominion of Canada, the Province of Ontario or any municipality within the Province. 1937, c. 3, s. 5.

5. Notwithstanding anything in this Act contained;—

What  
not to be  
included in  
determining  
aggregate  
value  
or be liable  
for duty.

- (a) a disposition of any property by the deceased, in his lifetime, and any property devised or bequeathed by him to or in favour of a religious, charitable or educational organization for religious, charitable or educational purposes, when such organization carries on its work solely within Ontario;

- (b) a disposition of any property by the deceased, in his lifetime, for necessities or education for any member of the family of the deceased, when it is shown to the satisfaction of the Treasurer that such member was dependent in whole or in part on the deceased for such necessities or education;

- (c) a disposition of any property made by the deceased, in his lifetime, to or for the benefit of any member of his family, where actual and *bona fide* possession and enjoyment of the property in respect of which the disposition was made, shall have been immediately assumed by the donee and thenceforward retained to the entire exclusion of the donor or of any benefit to him whether voluntarily or by contract or otherwise, more than ten years preceding the date of the death of the donor;

- (d) any payment made to or enjoyed by any member of the family of a deceased person, on or after the death of the deceased, out of or in respect of any pension fund or scheme of general application to employees, by reason of the employment of the deceased by the Dominion of Canada, or any province of Canada or any other country or any state, or municipality; and

- (e) any annuity, income, periodic payment or other interest effected, contracted for, or applied for by a deceased person during his lifetime whether in

connection with his employment or otherwise and paid to or enjoyed by the wife, or any dependent father, mother, brother, sister or child of the deceased on or after the death of such deceased, to the extent of \$1,200 per annum in respect of any one person and to the extent of \$2,400 per annum in the aggregate;

shall not be included for the purpose of arriving at the aggregate value or be liable for duty. 1937, c. 3, s. 6, *part*.

Religious,  
etc., organ-  
izations  
operating  
both within  
and outside  
Ontario.

6. When a religious, charitable or educational organization carries on its work both within and outside Ontario and there is a disposition of any property by the deceased in his lifetime or any property is devised or bequeathed by him to such organization, notwithstanding anything in this Act contained, the portion of such property as is in the same ratio to the whole that the ratio of the expenditures of the organization for carrying on its work in Ontario bears to its total expenditures, during such period as the Treasurer may determine, shall not be included for the purpose of arriving at the aggregate value and duty shall not be payable with respect to such portion. 1937, c. 3, s. 6, *part*.

Requests to  
Red Cross.

7. When there is a disposition of any property by the deceased in his lifetime or any property is devised or bequeathed by him to the Canadian Red Cross Society, notwithstanding anything in this Act contained such property shall not be included for the purpose of arriving at the aggregate value and duty shall not be payable with respect to such property. 1937, c. 3, s. 6, *part*.

Remission  
of duty in  
cases of  
persons  
killed in the  
war.

8. Where any person dies from wounds inflicted, accident occurring or disease contracted, within twelve months before death while in the active military or naval service of His Majesty, whether in Canada or abroad, the Treasurer may, if he thinks fit, remit the whole or any part of the duty chargeable in respect of property passing upon the death of the deceased to the wife, husband, child, son-in-law, daughter-in-law, father, mother, brother or sister of the deceased. 1934, c. 55, s. 5.

What to be  
taxable.

9. At the date of the death of any person,—

- (a) all property situate in Ontario passing on the death of such person, whether such person was at the time of his death domiciled in Ontario or elsewhere;



- (b) every transmission within Ontario owing to the death of any person domiciled therein of personal property locally situate outside Ontario;
- (c) every disposition of any property (other than realty situate outside Ontario) made within Ontario by any such person during his lifetime, on or after the 1st day of July, 1892;
- (d) every person to whom a disposition of any personal property (other than the property mentioned in clause g of section 10) was made after the date of the coming into force of this Act by the deceased in his lifetime outside Ontario, in respect of such personal property, when such deceased person was domiciled within Ontario at the time of such disposition and at the time of his death, and when the person to whom such disposition was made was resident or domiciled within Ontario at the time of such disposition and at the time of the death of the deceased person;

shall be subject to duty at the rates hereinafter imposed.  
1937, c. 3, s. 7, *part*.

**10.** Property passing on the death of the deceased shall be deemed to include for all purposes of this Act the following property,— “Property passing,” interpretation.

- (a) any property, real or personal, including money in banks or other institutions, held in the joint names of the deceased and one or more persons and payable to or passing to the survivor or survivors, but notwithstanding anything herein contained, that part of such joint property payable or passing as aforesaid which is shown, to the satisfaction of the Treasurer, to have been contributed by the survivor or survivors shall not be deemed to be property passing on the death; provided that where the joint tenancy or holding is created by some person other than the deceased and the survivor or survivors, such joint property shall be deemed to have been contributed to equally by the deceased and the survivor or survivors; Property held jointly. Proviso.
- (b) any annuity, income or other interest purchased, or in any manner, provided by the deceased either by himself alone or in concert or by arrangement with any other person to the extent of the beneficial Annuities.



interest accruing or arising by survivorship, or otherwise, on the death of the deceased;

Policies of insurance.

- (c) money received or payable at the time of a person's death, or money representing the value of any future payments, ascertained as provided herein, as at the time of such death, under a policy of life, accident or sickness insurance, whether such insurance is payable to or in favour of a preferred beneficiary within the meaning of *The Insurance Act* or not, effected, contracted for or applied for by such person, where the policy is wholly kept up by him for the benefit of any existing or future donee, whether nominee or assignee, or for any person who may become a donee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by him for such benefit;

When premiums paid by company.

- (d) money received or payable at the time of a person's death, or money representing the value of any future payments, ascertained as provided herein as at the time of such death, under a policy of life, accident or sickness insurance and whether or not effected, contracted for or applied for by such person, where the premiums on such policy were paid wholly or in part by a company, business or organization by which the deceased was employed or with which he was associated or in which he was interested, to the extent of any part of such money not paid to, or paid to and not thenceforth retained by such company, business or organization for its own use and benefit;

Property over which decedent had power of disposal.

- (e) any property of which the person dying was at the time of his death competent to dispose, and a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property as he thinks fit, whether the power is exercisable by instrument *inter vivos* or by will or both, including the powers exercisable by a tenant in tail whether in possession or not, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself or as mortgagee; provided that a disposition taking effect out of the interest of the person so dying shall be deemed to have been made by him whether concurrence of any other person was or was not required and provided further that money

which a person has a general power to charge on property shall be deemed to be property of which he has the power to dispose;

- (f) any property, passing under any past or future settlement, including any trust, whether expressed in writing or otherwise and if contained in a deed or other instrument effecting the settlement, whether such deed or other instrument was made for valuable consideration or not, as between the settlor and any other person, made by deed or other instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life, or any other period determinable by reference to death, is reserved, either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to restore to himself, or to reclaim the absolute interest in such property, or the proceeds of sale thereof, or to otherwise resettle the same or any part thereof; Property passing under settlement, etc.
- (g) any property in respect of which a disposition was made by the deceased person outside Ontario during his lifetime, where such deceased person was domiciled in Ontario at the time of the disposition and at the date of his death and which property was situate within Ontario and owned by the person to whom such disposition was made at the date of the death of such deceased person, or any other property into which such property has become directly converted, or which, exclusive of income, has been derived therefrom, when such other property was situate within Ontario and owned by the person to whom such disposition was made, at the date of the death of the deceased person; and Property disposed of outside Ontario.
- (h) any right, interest or estate in dower or by curtesy to which the wife or husband of the deceased may be entitled. 1937, c. 3, s. 7, *part.* Dower and curtesy.

**11.** A disposition of any property by any person, during his lifetime, shall be deemed to include for all purposes of this Act,— Disposition, what to include.

- (a) any voluntary transfer, payment, gift, release, surrender, waiver, mailing, dispatching or sending, of any property or any benefit or interest in any

property by the deceased person or by his agent or nominee,

(i) by way of declaration of trust, creation of trust, or otherwise, or

(ii) through the instrumentality or agency of any company, partnership or business in which either the deceased person or such other person was either alone or in combination with any member of his family, beneficially interested, directly or indirectly, to the extent of more than fifty per centum, or

(iii) by any other method whatsoever,

whereby any property or benefit or interest in any property passes, directly or indirectly, from the deceased person during his lifetime to any other person;

Transfer for partial consideration.

(b) the transfer of, or the agreement to transfer any property by the deceased, for partial consideration in money or money's worth for the deceased's own use and benefit to the extent to which the value of the property so transferred or agreed to be transferred exceeds the value of such consideration;

Marriage settlements.

(c) the transfer to or settlement on, or the agreement for such transfer to or settlement on, any person or persons by the deceased, in consideration of marriage;

Creation of or contribution to joint tenancy.

(d) the creation of, or the contribution to a joint tenancy of any property by the deceased when the deceased was one of the joint tenants and when one of the other joint tenants has subsequently and in the lifetime of the deceased, taken or converted such property to his own use and benefit by way of withdrawal, transfer, partition, severance or otherwise. 1937, c. 3, s. 7, *part*.

Value of a disposition.

**12.** For the purposes of this Act the value of a disposition shall be the fair market value of the property in respect of which such a disposition is made or of any property into which it has become directly converted, or which, exclusive of income, has been derived from such property, at the date of the death of the deceased, provided that,—

- (a) if such property or the property into which it has been so converted, or which has been derived from it, has been sold for or converted into cash during the lifetime of the deceased the amount of such cash shall be the value of such disposition;
- (b) if the property in respect of which a disposition is made is money or cash, the amount of such money or cash shall be the value of such disposition; and
- (c) the provisions of sections 9, 11 and this section shall apply notwithstanding that the property in respect of which there is a disposition may not be in existence at the date of death, and whether or not the property in respect of which such a disposition was made was owned at the date of death of the deceased by the person to whom the disposition was made. 1937, c. 3, s. 7, *part.*

**13.** Where the fair market value of,

Variance of  
fair market  
value of  
property.

- (a) any property in respect of which a disposition was made subject to encumbrance at the date of such disposition and such encumbrance was still in existence at the date of death; or
- (b) any property which was transferred for partial consideration as mentioned in clause *b* of section 11;

has varied between the date of the disposition or transfer and the date of death, the value or amount of any such encumbrance or the value or amount of such partial consideration shall be deemed to vary in like proportion. 1937, c. 3, s. 7, *part.*

**14.** When a person dies domiciled within Ontario and any property mentioned in sections 9 and 10, being personalty and being situate outside Ontario at the time of death, passes on the death to a person resident or domiciled within Ontario at the time of the death there shall be deemed to be with respect to such property a transmission within Ontario owing to the death of a person domiciled therein, of personal property, locally situate outside Ontario, within the meaning of this Act. 1937, c. 3, s. 7, *part.*

Property in  
respect of  
which there  
is deemed  
to be a  
transmission  
within  
Ontario.

**15.** Notwithstanding any other provision herein contained, no duty shall be payable on a disposition or by any person mentioned in clause *d* of section 9 (where actual and *bona fide* possession and enjoyment of the property in respect of which

Exemptions.



the disposition was made, shall have been assumed by the donee immediately upon the disposition and thenceforward retained to the entire exclusion of the donor or of any benefit to him, whether voluntarily or by contract or otherwise) where the disposition is made,—

Dispositions to certain relatives more than three years before death.

- (a) more than three years before the death of the donor to the father, mother, child, son-in-law or daughter-in-law of the donor to the value or amount of \$20,000 in the aggregate among all of them; or

Dispositions to \$500.

- (b) by the donor in his lifetime and not exceeding in value the sum of \$500, in the case of any one donee; or

Dispositions for full consideration.

- (c) *bona fide* and for full consideration in money or money's worth paid to the transferor for his own use and benefit; provided that this clause shall not apply to anything contained in clause *c* of section 11. 1937, c. 3, s. 7, *part*.

Amount of duty.

**16.**—(1) Subject to the provisions of this or any other Act as to exemption from duty, duty shall be levied and paid for raising a revenue for provincial purposes, whether the deceased was domiciled at the time of his death in Ontario or elsewhere,

- (a) on all property passing on the death and situate in Ontario at such time;

- (b) on all dutiable transmissions;

- (c) on all dutiable dispositions; and

- (d) on all persons mentioned in clause *d* of section 9;

according to the dutiable value as herein provided, at the following rates, over and above the fees paid under *The Surrogate Courts Act*,—

Rev. Stat., c. 106.

Where property passes, etc., to grand-parents, etc., and exceeds \$25,000.

- (i) Where the aggregate value exceeds \$25,000,

- (a) any property situate in Ontario which passes to or for the benefit of the grandfather, grandmother, father, mother, husband, wife, child, son-in-law or daughter-in-law of the deceased;

- (b) any dutiable transmission to or for the benefit of any of the persons mentioned in subclause *a*;



(c) any dutiable disposition to or for the benefit of any of the persons mentioned in subclause *a*; and

(d) any person mentioned in subclause *a* who is subject to duty under clause *d* of section 9;

shall be subject to duty at the rate and on the scale as follows:

Where the aggregate value,—

(a) exceeds \$25,000 and does not exceed \$50,000—  
1 per centum plus  $\frac{6}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$25,000;

(b) exceeds \$50,000 and does not exceed \$75,000—  
 $2\frac{1}{2}$  per centum plus  $\frac{4}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$50,000;

(c) exceeds \$75,000 and does not exceed \$100,000—  
 $3\frac{1}{2}$  per centum plus  $\frac{6}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$75,000;

(d) exceeds \$100,000 and does not exceed \$150,000—5 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$100,000;

(e) exceeds \$150,000 and does not exceed \$200,000— $5\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$150,000;

(f) exceeds \$200,000 and does not exceed \$300,000—6 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$200,000;

(g) exceeds \$300,000 and does not exceed \$400,000— $6\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$300,000;

(h) exceeds \$400,000 and does not exceed \$500,000—7 per centum plus  $\frac{1}{100}$  of 1 per

centum for each full \$2,000 by which the aggregate value exceeds \$400,000;

- (i) exceeds \$500,000 and does not exceed \$600,000— $7\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$500,000;
- (j) exceeds \$600,000 and does not exceed \$700,000—8 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (k) exceeds \$700,000 and does not exceed \$800,000— $8\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$700,000;
- (l) exceeds \$800,000 and does not exceed \$900,000—9 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$800,000;
- (m) exceeds \$900,000 and does not exceed \$1,000,000— $9\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$900,000; 1934, c. 55, s. 7 (1), par. (i), cls. (a-m); 1937, c. 3, s. 8 (1).
- (n) exceeds \$1,000,000 and does not exceed \$5,000,000—10 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$10,000 by which the aggregate value exceeds \$1,000,000;
- (o) exceeds \$5,000,000—14 per centum. 1935, c. 67, s. 3 (1).

Additional  
duty where  
share  
exceeds  
\$50,000.

- (ii) Where the value of any property passing to or for the benefit of any one of the persons mentioned in paragraph (i) of this subsection and the value of any disposition to or for the benefit of such person exceeds the amount hereinafter mentioned,—

- (a) any property situate in Ontario which passes to or for the benefit of such person;
- (b) any dutiable transmission to or for the benefit of such person;

- (c) any dutiable disposition to or for the benefit of such person; and
- (d) any such person if subject to duty under clause d of section 9;

shall be subject to a further duty at the rate and on the scale as follows:

Where the amount,—

- (a) exceeds \$50,000 and does not exceed \$75,000— $1\frac{1}{2}$  per centum plus  $\frac{2}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$50,000;
- (b) exceeds \$75,000 and does not exceed \$100,000—2 per centum plus  $\frac{2}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$75,000;
- (c) exceeds \$100,000 and does not exceed \$150,000— $2\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$100,000;
- (d) exceeds \$150,000 and does not exceed \$300,000—3 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$3,000 by which the whole amount so passing exceeds \$150,000;
- (e) exceeds \$300,000 and does not exceed \$400,000— $3\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$300,000;
- (f) exceeds \$400,000 and does not exceed \$500,000— $4\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$400,000;
- (g) exceeds \$500,000 and does not exceed \$600,000—5 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$500,000;
- (h) exceeds \$600,000 and does not exceed \$700,000— $5\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per

centum for each full \$2,000 by which the whole amount so passing exceeds \$600,000;

- (i) exceeds \$700,000 and does not exceed \$750,000—6 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$700,000;
- (j) exceeds \$750,000 and does not exceed \$800,000— $6\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$750,000;
- (k) exceeds \$800,000 and does not exceed \$900,000—7 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$800,000;
- (l) exceeds \$900,000 and does not exceed \$1,000,000— $7\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$900,000;
- (m) exceeds \$1,000,000 and does not exceed \$1,200,000—8 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$1,000,000;
- (n) exceeds \$1,200,000 and does not exceed \$1,400,000— $8\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$1,200,000;
- (o) exceeds \$1,400,000 and does not exceed \$1,600,000—9 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$1,400,000;
- (p) exceeds \$1,600,000 and does not exceed \$1,800,000— $9\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$1,600,000;
- (q) exceeds \$1,800,000 and does not exceed \$2,000,000—10 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$1,800,000;

- (r) exceeds \$2,000,000 and does not exceed \$2,200,000—10½ per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$2,000,000;
- (s) exceeds \$2,200,000 and does not exceed \$2,400,000—11 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$2,200,000;
- (t) exceeds \$2,400,000 and does not exceed \$2,600,000—12 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$2,400,000;
- (u) exceeds \$2,600,000 and does not exceed \$2,800,000—13 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$2,600,000;
- (v) exceeds \$2,800,000 and does not exceed \$3,000,000—14 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$2,800,000;
- (w) exceeds \$3,000,000—15 per centum. 1934, c. 55, s. 7 (1), par. (ii); 1937, c. 3, s. 8 (2).

(iii) Where the aggregate value exceeds \$10,000,—

Rate of duty where property passes, etc., to certain relatives.

- (a) any property situate in Ontario which passes to or for the benefit of a lineal ancestor of the deceased, except the grandfather, grandmother, father or mother, or to or for the benefit of a brother or sister of the deceased or a descendant of such brother or sister, or to or for the benefit of a brother or sister of the father or mother of the deceased, or a descendant of such last mentioned brother or sister;
- (b) any dutiable transmission to or for the benefit of any of the persons mentioned in subclause a;
- (c) any dutiable disposition to or for the benefit of any of the persons mentioned in subclause a; and



- (d) any of the persons mentioned in subclause *a* who is subject to duty under clause *d* of section 9;

shall be subject to duty at the rate and on the scale as follows:

Where the aggregate value,—

- (a) exceeds \$10,000 and does not exceed \$30,000—  
5 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$10,000;
- (b) exceeds \$30,000 and does not exceed \$60,000—  
7 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$30,000;
- (c) exceeds \$60,000 and does not exceed \$100,000—10 per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$60,000;
- (d) exceeds \$100,000 and does not exceed \$200,000—12 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$100,000;
- (e) exceeds \$200,000 and does not exceed \$400,000—13 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$400,000 and does not exceed \$600,000—14 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (g) exceeds \$600,000 and does not exceed \$800,000—15 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (h) exceeds \$800,000 and does not exceed \$1,000,000—16 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$800,000;

- (i) Exceeds \$1,000,000—17 per centum. 1934, c. 55, s. 7 (1), par. (iii); 1937, c. 3, s. 8 (3).
- (iv) Where the value of any property passing to or for the benefit of any one of the persons mentioned in paragraph iii of this subsection and the value of any disposition to or for the benefit of such person exceeds the amount hereinafter mentioned,—
- (a) any property situate in Ontario which passes to or for the benefit of such person;
- (b) any dutiable transmission to or for the benefit of such person;
- (c) any dutiable disposition to or for the benefit of such person; and
- (d) any such person if subject to duty under clause d of section 9;

shall be subject to a further duty at the rate and on the scale as follows:

Where the amount,—

- (a) exceeds \$10,000 and does not exceed \$60,000— $2\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$10,000;
- (b) exceeds \$60,000 and does not exceed \$160,000—3 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$60,000;
- (c) exceeds \$160,000 and does not exceed \$200,000— $3\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$4,000 by which the whole amount so passing exceeds \$160,000;
- (d) exceeds \$200,000 and does not exceed \$300,000—4 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$200,000
- (e) exceeds \$300,000 and does not exceed \$350,000— $4\frac{1}{2}$  per centum plus  $\frac{1}{100}$  of 1 per

centum for each full \$1,000 by which the whole amount so passing exceeds \$300,000;

- (f) exceeds \$350,000 and does not exceed \$450,000—5 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$350,000;
- (g) exceeds \$450,000 and does not exceed \$500,000—5½ per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$450,000;
- (h) exceeds \$500,000 and does not exceed \$600,000—6 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$500,000;
- (i) exceeds \$600,000 and does not exceed \$700,000—6½ per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$600,000;
- (j) exceeds \$700,000 and does not exceed \$800,000—7 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$700,000;
- (k) exceeds \$800,000 and does not exceed \$900,000—7½ per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$2,000 by which the whole amount so passing exceeds \$800,000;
- (l) exceeds \$900,000 and does not exceed \$1,000,000—8 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$1,000 by which the whole amount so passing exceeds \$900,000;
- (m) exceeds \$1,000,000 and does not exceed \$1,500,000—9 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$5,000 by which the whole amount so passing exceeds \$1,000,000;
- (n) exceeds \$1,500,000 and does not exceed \$2,000,000—10 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$5,000 by which the whole amount so passing exceeds \$1,500,000;

(o) exceeds \$2,000,000 and does not exceed \$2,500,000—11 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$5,000 by which the whole amount so passing exceeds \$2,000,000;

(p) exceeds \$2,500,000 and does not exceed \$3,000,000—12 per centum plus  $\frac{1}{100}$  of 1 per centum for each full \$5,000 by which the whole amount so passing exceeds \$2,500,000;

(q) exceeds \$3,000,000—13 per centum. 1934, c. 55, s. 7 (1), par. (iv); 1937, c. 3, s. 8 (4).

(v) Where the aggregate value exceeds \$5,000,—

Rate where  
property  
passes to  
other  
persons.

(a) any property situate in Ontario which passes to or for the benefit of any person other than the persons mentioned in paragraphs i and iii;

(b) any dutiable transmission to or for the benefit of any of the persons mentioned in subclause a;

(c) any dutiable disposition to or for the benefit of any of the persons mentioned in subclause a; and

(d) any person mentioned in subclause a who is subject to duty under clause d of section 9;

shall be subject to duty at the rate and on the scale as follows:

Where the aggregate value,—

(a) exceeds \$5,000 and does not exceed \$10,000— $7\frac{1}{2}$  per centum plus 1 per centum for each full \$1,000 by which the aggregate value exceeds \$5,000;

(b) exceeds \$10,000 and does not exceed \$50,000— $12\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$800 by which the aggregate value exceeds \$10,000;

(c) exceeds \$50,000 and does not exceed \$100,000—15 per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$1,000 by which the aggregate value exceeds \$50,000;

- (d) exceeds \$100,000 and does not exceed \$200,000— $17\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$100,000;
- (e) exceeds \$200,000 and does not exceed \$300,000—20 per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$300,000 and does not exceed \$400,000— $22\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$300,000;
- (g) exceeds \$400,000 and does not exceed \$500,000—25 per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (h) exceeds \$500,000 and does not exceed \$600,000— $27\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$500,000;
- (i) exceeds \$600,000 and does not exceed \$700,000—30 per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (j) exceeds \$700,000 and does not exceed \$800,000— $32\frac{1}{2}$  per centum plus  $\frac{5}{100}$  of 1 per centum for each full \$2,000 by which the aggregate value exceeds \$700,000;
- (k) exceeds \$800,000—35 per centum. 1934, c. 55, s. 7 (1), par. (v); 1937, c. 3, s. 8 (5).

Value of  
transmission.

(2) The value of a transmission shall be deemed to be the fair market value of the property with respect to which there is such transmission. 1934, c. 55, s. 7 (2); 1937, c. 3, s. 8 (6).

Persons  
liable under  
under s. 9,  
cl. d—  
how taxed.

(3) Such persons as are subject to duty according to the provisions of clause d of section 9 shall be so subject to duty on the basis of the value of the disposition mentioned therein. 1937, c. 3, s. 8 (7).

Surtax.

(4) An additional duty by way of surtax of fifteen per centum on all duties imposed under this Act shall be levied



and added to and collected with such duties. 1934, c. 55, s. 7 (3); 1935, c. 67, s. 3 (2).

(5) Where the property passing to any one of the persons mentioned in paragraph v of subsection 1 and the disposition to such person do not exceed, in all, \$1,000, no duty shall be paid on such property or such disposition if such person was in the employ of the deceased for at least five years immediately prior to his death. 1937, c. 3, s. 8 (8). Exemption up to \$1,000 in certain cases.

17.—(1) Notwithstanding anything in this Act contained where the Treasurer is satisfied that in any part of the British Dominions other than Ontario, or in any foreign country to which this section applies, any estate, legacy or succession duty is paid on property with respect to which there is a transmission within Ontario which is dutiable according to the provisions of this Act, a deduction on account of the duty paid on such property as aforesaid shall be made from the duty payable to Ontario with respect to the transmission thereof; provided that any such deduction shall be made only as to such part of the British Dominions or as to such foreign country to which the Lieutenant-Governor in Council shall have extended the provisions of this section, and such deduction shall be in accordance with such terms or understanding as the Treasurer may deem proper to make or have with such part of the British Dominions or such foreign country; provided also that the Lieutenant-Governor in Council may revoke any order-in-council made under this section. Allowance for duty paid elsewhere on same death.

(2) In determining for the purpose of this section only whether property is locally situate in Great Britain or in the Province of Ontario, the law of England shall be followed. Law of England as to local situs adopted.

(3) Notwithstanding anything in this Act contained, the duty imposed by this Act in respect of personal property (except tangible personal property having an actual *situs* in Ontario) shall not be payable (a) if the transferor at the time of his death was a resident of a province of Canada which at the time of his death did not impose a transfer tax, death duty or succession duty of any character in respect of personal property of residents of Ontario (except tangible personal property having an actual *situs* in such province) or (b) if the laws of the province of residence of the transferor at the time of his death contained a reciprocal exemption provision under which non-residents were exempted from transfer taxes, succession duties or death taxes of every character in respect of personal property (except tangible personal property having an actual *situs* therein), provided the province of residence of such non- Exception.

residents allowed a similar exemption to residents of the province of residence of such transferor, and provided further that this subsection shall apply only with respect to intangible personal property which, but for this subsection, would be chargeable with duty both in the province of residence of the transferor and the province where such intangible personal property is situate, and, for the purposes of this section, "intangible personal property" shall mean incorporeal property including money, deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of any interest in property and evidences of debt. 1934, c. 55, s. 8.

Consent to transfer and opening of safety deposit box required.

**18.—**(1) Unless the consent thereto, in writing, of the Treasurer is obtained, no bank, trust company, insurance company or other corporation having its head office, principal place of business, office from which payments of claims or debts are made, register of shareholders, or any place of transfer in Ontario, shall,—

Bearer securities not to be transferred by a corporation without consent.

(a) deliver, transfer, assign or pay, or permit any delivery, transfer, assignment or payment of any bearer bonds, bearer share warrants, bearer stock certificates, guaranteed investment certificates payable to bearer, company notes or other notes payable to bearer, receivables payable to bearer, credits or letters of credit payable to bearer or any other bearer securities whatsoever, belonging to a deceased person or in which such deceased person had any beneficial interest whatsoever, and which may be liable to duty in Ontario, or with respect to which there is a transmission within Ontario, whether such person died domiciled in Ontario or elsewhere; 1934, c. 55, s. 9 (1), cl. (a).

Consent required for insurance moneys.

(b) transfer, assign or pay, or permit the transfer, assignment or payment of any insurance moneys payable on the death of a person as a result of any contract of insurance entered into by such person in his lifetime, whether such policy of insurance is upon the life of such person or concerns him or his estate, or is upon the life of, or concerns another person or his estate, or as a result of any contract of insurance entered into by any person other than such deceased person, when such insurance moneys may be liable for duty in Ontario, or with respect to which there is a transmission within Ontario, whether such deceased person died domiciled within Ontario or elsewhere. 1937, c. 3, s. 9 (1).

- (c) deliver, transfer, assign or pay, or permit any delivery, transfer, assignment or payment of any bonds, shares of stock, guaranteed investment certificates, company notes or other notes, receivables, credits or letters of credit, moneys on deposit in any bank, trust company office or office of any other institution, or any other securities or property whatsoever, belonging to a deceased person and standing in his name, or in his name and that of any other person, or held in trust for such deceased person, or for him and any other person, or in which such deceased person had any beneficial interest, and which may be liable to duty in Ontario, or with respect to which there is a transmission within Ontario, whether such person died domiciled in Ontario or elsewhere; 1934, c. 55, s. 9 (1), cl. (b): 1935, c. 67, s. 4 (1).
- (d) permit the opening of any safety deposit box in Ontario or the removal thereof from Ontario when such safety deposit box contains any negotiable instruments, certificates representing indebtedness under bond or otherwise, or representing any holdings of stock, muniment of title, insurance policy, or any other property belonging to a deceased person, or permit the withdrawal from a safety deposit box in Ontario of anything mentioned in this clause. 1934, c. 55, s. 9 (1), cl. (c).

(2) Notice in writing of the intention to open any safety deposit box as is mentioned in clause *d* of subsection 1 or to withdraw therefrom according to the meaning of the said clause *d*, shall be served on the Treasurer or his representative at least ten days, or other period to which the Treasurer may agree, before such opening or withdrawal is intended to take place, and the Treasurer or his representative may attend at the time and place of such opening or withdrawal and there give a consent in writing to the same as provided herein, and he may examine the contents thereof, or the Treasurer or his representative may give such consent without attending and examining as herein provided, but such consent shall apply only to the acts mentioned in the said clause *d*.

(3) Unless the consent in writing of the Treasurer is obtained, no person (whether or not acting in any fiduciary capacity) shall deliver, transfer, assign or pay, or permit any delivery, transfer, assignment or payment of any chattel mortgages, book debts, promissory notes, moneys, shares of stock, bonds or other securities whatsoever (whether registered or unregistered) belonging to a deceased person, or in which such deceased person had any beneficial interest whatsoever,

Consent  
required for  
registered  
securities,  
etc.

Opening of  
safety  
deposit  
boxes, etc.

Persons  
(whether  
or not  
acting as  
trustees)  
not to  
transfer  
certain  
assets  
without  
consent.

Not to  
apply to  
executors.

and which may be liable to duty in Ontario, or with respect to which there is a transmission within Ontario, whether such deceased person died domiciled in Ontario or elsewhere; provided that nothing contained in this subsection shall apply to any person when acting solely in the capacity of executor.

Executors  
in certain  
cases not to  
transfer  
without  
consent.

(4) Unless the consent in writing of the Treasurer is obtained, no person acting in the capacity of executor shall deliver, transfer, assign or pay, or permit any delivery, transfer, assignment or payment of any book debts, notes, receivables, moneys, cash in bank, shares of stock, bonds, chattel mortgages or other securities whatsoever, when such property, or any of such property, was held by him in trust for a beneficiary who has died (domiciled either in Ontario or elsewhere) or in trust for the ultimate benefit of such deceased beneficiary on realization, or when such deceased beneficiary had any beneficial interest whatsoever in such property, or any of such property, and when such property, or any of such property, may be liable to duty in Ontario, or with respect to which there is a transmission within Ontario. 1934, c. 55, s. 9 (2-4).

Payment of  
insurance  
policies.

(5) Notwithstanding anything herein contained, an insurance company may make payment not exceeding \$1,100 due under a policy or policies of insurance which may be liable for duty in Ontario (or with respect to which there is a transmission within Ontario) without obtaining the consent in writing of the Treasurer, and, where such payment has been made, notice shall be transmitted to the Treasurer forthwith; provided that, where such payment does not exceed \$600, such notice shall not be necessary. 1937, c. 3, s. 9 (2).

No consent  
required, in  
certain  
cases, for  
payment of  
portion of  
joint bank  
account.

(6) Where there is in any institution in Ontario a joint deposit account standing in the names of a deceased person and some other person and payable in whole, or in part, to the survivor, then, notwithstanding anything in this Act contained, there may be paid to the survivor or transferred to his account, one-half of the joint moneys to which such survivor is entitled or \$500 of such joint moneys (whichever is the lesser amount) without the formal consent of the Treasurer; provided that, immediately on such payment or transfer, the institution concerned shall notify the Treasurer, and provided further where there are more than one of such joint accounts in the same branch only one may be dealt with in the manner described in this subsection. 1934, c. 55, s. 9 (6).

Penalties.

(7) Any bank, trust company, insurance company or other corporation, or any person mentioned in this section failing to comply with same shall incur a penalty not exceeding the



amount of duty payable to the Province in respect of any property dealt with in contravention of this section, or in respect of the transmission of such property, and shall, in addition, incur a penalty of \$1,000, but such penalties shall not apply when the Treasurer is satisfied that the contravention was not wilful. 1934, c. 55, s. 9 (7); 1935, c. 67, s. 4 (2).

**19.**—(1) Every heir, legatee, devisee or donee, and every person to whom property passes for any beneficial interest in possession or in expectancy or in whose favour a disposition is made shall be liable for the duty upon so much of the property as so passes to him and which is dutiable in Ontario according to the provisions of this Act, and shall also be liable for the duty, if any, in respect of any transmission or disposition to him. 1934, c. 55, s. 10 (1); 1937, c. 3, s. 10 (1). <sup>Liability of heir, etc.</sup>

(2) Each of the persons mentioned in and who benefits according to subsection 1 shall within three months after the death of the deceased, or such later time as may be allowed by the Treasurer, make and file with the Treasurer or the registrar of the surrogate court of the county or district in which the deceased had a fixed place of abode, or in which the property or any part thereof is situate, a full, true and correct statement under oath showing,— <sup>Filing inventory, etc.</sup>

(a) a full inventory in detail of all the property of the deceased person and of all the property in respect of which there is a disposition and the fair market value thereof on the date of his death;

(b) the several persons to whom the same passes, their places of residence, and the degrees of relationship, if any, in which they stand to the deceased. 1934, c. 55, s. 10 (2); 1937, c. 3, s. 10 (2).

(3) Before the issue of letters probate or letters of administration to the estate of a deceased person, a statement under oath similar to that required by subsection 2 shall be made by the executor or administrator applying therefor and filed with the surrogate registrar of the county or district in which the application is made. <sup>Duty and liability of executors, etc.</sup>

(4) Where one of the persons mentioned in subsection 1 or 3 has made and filed the statement required by subsection 2 or 3, the Treasurer may dispense with the making of the statement by any other of them. <sup>Where one files statement, others to be relieved.</sup>

(5) The Treasurer may accept a sufficient sum as security for the due payment of any duty, and he may in such case <sup>Accepting lump sum as security.</sup>



allow to the depositor interest thereon at a rate not exceeding four per centum per annum upon so much thereof as from time to time exceeds the amount of duty which has become payable under this Act. 1934, c. 55, s. 10 (3-5).

Property not disclosed on application for probate, etc.

(6) If at any time it shall be discovered that any property or disposition of property was not disclosed upon the grant of letters probate or of administration, or the filing of the account, the person acting in the administration of such property, and the person who is liable for the duty payable under this Act, shall pay to the Treasurer the amount which, with the duty previously payable or paid on the property properly disclosed (or on the transmission thereof) shall be sufficient to cover the whole of the duty chargeable at the rates fixed by this Act, and shall at the same time pay to the Treasurer, as a penalty, a further sum of one hundred per centum of the duty chargeable on the property or in respect of the disposition of property not disclosed (or on the transmission thereof) and shall also within two months after the discovery of the omission deliver to the surrogate registrar or the Treasurer an affidavit or account setting forth the property or disposition not so disclosed, and the value thereof, in default of which they shall each incur a penalty of \$10 for each day during which the default continues. 1934, c. 55, s. 10 (6); 1935, c. 67, s. 5; 1937, c. 3, s. 10 (3).

Penalty for failure to file inventory.

(7) For default in complying with subsection 2, the person who is liable for the duty, if any, shall incur a penalty of \$10 for each day during which the default continues. 1934, c. 55, s. 10 (7).

Proceedings when Treasurer not satisfied with valuation.

**20.**—(1) The surrogate judge of the county in which the property or any part thereof, subject to duty is situate shall, at the instance of the Treasurer and upon such notice by personal or substitutional service to the executor or such interested parties as he by order directs, enquire into the correctness of the inventory, and as to the value so sworn to, and determine what property should be included in such inventory and the value of the same, fix and settle the amounts of the debts and other allowances and exemptions, and assess the cash value of every annuity, term of years, life estate, income or other estate, and of every interest in expectancy as provided by this Act, and shall at the time and place mentioned in the notice or any other time and place named by him value all property at the fair market value, and hear and determine all questions relative to the liability of property, or the transmission or disposition thereof, to duty, the amount of duty, and the persons liable therefor. 1934, c. 55, s. 11 (1); 1937, c. 3, s. 11 (1).

(2) The surrogate judge shall have all the powers of a judge <sup>Powers of judge.</sup> of the county court at the trial of any action and the power to compel discovery, the production of books, papers and documents and he may with the consent of the Official Guardian appoint for the purposes of this Act a guardian of any infant who has no guardian.

(3) The judgment of the surrogate judge shall have the <sup>Enforcement of judgment.</sup> like force and effect and be enforceable in the same manner as a judgment of the county court.

(4) In lieu of or in addition to evidence of valuation of property the surrogate judge may in the first instance or at any time before judgment, and at the request of the Treasurer shall issue a direction to the sheriff of the county <sup>Judge may direct appraisement of property by sheriff.</sup> where any property is situate in respect to which duty is payable, or to some other competent person, to make an appraisement of the property mentioned in the inventory or any part thereof, or of any property wrongfully omitted.

(5) When so directed the sheriff shall forthwith appraise <sup>Appraisement at fair market value.</sup> the property mentioned in the inventory, or any part thereof, as directed by the surrogate judge, or any property wrongfully omitted, at its fair market value at the date of the death, or at the time provided in section 24, as the case may be, and make a report in writing to the surrogate judge of his appraisement and of such other facts as he may deem proper.

(6) In addition to his actual and necessary travelling <sup>Sheriff's fees.</sup> expenses the sheriff shall be paid for services performed under this Act at the rate of \$1 for every hour in ordinary cases and at the rate of \$2 for every hour in important or difficult cases but such fees shall in no case exceed \$10 for any day upon which he may be employed. 1934, c. 55, s. 11 (2-6).

(7) The Treasurer may mail to the solicitor who files the affidavit of value and relationship or to the person acting in the administration of the property or the person liable for the duty, a statement showing the appraisement of the property, the liability for duty under the provisions of this Act and the amount of duty, and unless within thirty days after the mailing of such statement he receives a notice in writing signed by the person acting in the administration of the property or any person affected by such statement, or the solicitor or agent for any such person stating an objection to such statement or any portion thereof and the reasons for such objection, such statement shall, for the purposes of this Act, be final and binding upon every person affected thereby; <sup>Statement to be final under certain circumstances.</sup>

provided that where the deceased died domiciled outside of Canada, or where the sole executor resides outside of Canada, the Treasurer may extend the time hereby limited, to a period not exceeding sixty days. 1937, c. 3, s. 11 (2).

Valuation of annuities, etc. **21.** The value of every annuity, term of years, life estate, income or other estate, and every interest in expectancy, in respect of which duty is payable under this Act, shall for the purposes of this Act be determined by such rule, method and standards of mortality and of value and at such rate of interest as the Lieutenant-Governor in Council may deem fit. 1934, c. 55, s. 12.

Appeal from surrogate judge. **22.**—(1) The Treasurer, or any other person interested, may within thirty days from the date of the judgment of the surrogate judge appeal to the Court of Appeal, whose decision shall be final, but no appeal shall lie unless that portion of the property or of the debts and other allowances and exemptions in respect of which such appeal is taken, or all combined, exceeds in value or amount \$10,000 according to such judgment. 1934, c. 55, s. 13 (1); 1931, c. 24, s. 2.

Proviso.

Costs (2) The costs of all such proceedings shall be in the discretion of the court or judge and shall be on the county court scale, except the costs of an appeal, which shall be according to the tariff applicable to proceedings in the Supreme Court. 1934, c. 55, s. 13 (2).

Duty payable within six months from death of deceased. **23.**—(1) The duty imposed by this Act, unless otherwise herein provided, shall be due at the death of the deceased and payable within six months thereafter, and, if the same, or any part thereof, is paid within that period, no interest shall be charged or collected thereon, but, if not so paid, interest at the rate of six per centum per annum from the death of the deceased shall be charged and collected upon the amount remaining from time to time unpaid, and where such duty is levied on property in Ontario or in respect of a disposition, wherever made, of property in Ontario the same, or so much thereof as remains unpaid, with interest thereon, shall be and remain a first lien and charge upon the property, in respect of which it is payable, until paid; provided that in the case of an annuity, or income, whether for life or otherwise, the duty, if any, unless otherwise herein provided, shall be payable in four equal consecutive annual instalments, one year, two years, three years and four years, respectively, after the death of the deceased, and for non-payment, when payable, interest at the rate of six per centum per annum from the respective dates payable until paid shall be charged and collected upon

Proviso.

the amounts remaining from time to time unpaid, and, if the annuitant or tenant of income dies before the expiration of the four-year period provided for in this subsection, the balance of the duties shall be payable by the estate or fund out of which the annuity or income is charged or derived, and such balance shall be payable in the same manner as provided for herein, had the annuitant or tenant of income lived throughout the four-year period, and the same shall be subject to the interest penalty provided for herein. 1934, c. 55, s. 14 (1); 1935, c. 67, s. 7 (1); 1937, c. 3, s. 12 (1).

(2) If before the expiration of the term provided in subsection 1, for the payment of duty on any annuity or income, such annuity or income has ceased or has been reduced under circumstances provided for in the will or settlement directing the payment of such annuity or income, the balance of the duty where the annuity or income has wholly ceased or the duty on the portion which has ceased, shall be payable by the estate or fund on or out of which the annuity or income is charged or derived or which has benefited by its cessation or reduction, and such balance, or the duty on the portion of annuity or income which has ceased, shall be payable in the same manner as is provided for herein had there not been such cessation or reduction, and the same shall be subject to the interest penalty provided for herein; provided that this subsection shall be retroactive to and including the 1st day of October, 1928, and shall apply, as and when the occasion arises, to estates of persons dying on or after that date.

Duty when annuity, etc., has ceased or has been reduced.

(3) The Lieutenant-Governor in Council, upon proof to his satisfaction that payment of duty within the time limited by this section would be unduly onerous, may extend the time for the payment to such date and upon such terms as may be deemed proper.

Extension of time by order-in-council.

(4) For payment before the time provided for in this section, the Treasurer may allow to the person accountable for the duty interest at a rate not exceeding four per centum per annum upon the amount so paid. 1934, c. 55, s. 14 (2-4).

Interest allowed for prepayment.

(5) The Lieutenant-Governor in Council, upon proof to his satisfaction that an overpayment of duty has been made in any estate, may refund the amount of such overpayment to the person entitled thereto together with interest thereon at a rate not exceeding three per centum from the date of the making of such overpayment to the date on which such amount is refunded; provided, and notwithstanding the provisions of section 26, no such refund shall be made in any given estate after the expiration of one year from the receipt

Amount of duty overpaid to be refunded in certain cases.



by the Treasurer of an amount purporting to be in full settlement of the duty or the balance of the duty in such estate. 1937, c. 3, s. 12 (2).

Treasurer may require payment to be made in succession duty free bonds.

(6) Where property passing on the death of a deceased person includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under the provisions of any Statute of Ontario exempting them from duty, then, notwithstanding any declaration or provision made by will or otherwise by the deceased and where the persons to whom such bonds, debentures, stocks or other securities pass, or any of them, are liable for any duty according to the provisions of subsection 1 of section 19, the Treasurer may require that such bonds, debentures, stocks or other securities or a sufficient part thereof shall be delivered to him and applied on account of the duty payable by such persons and such bonds, debentures, stocks or other securities shall be so applied on the basis of their fair market value as at the date of death of the deceased. 1937, c. 3, s. 12 (3).

Time for payment of duty where income accumulated.

(7) Where the whole or any part of the income or interest of any property is directed to be accumulated for any period for the benefit of any person or persons or class to whom or to any of whom at the expiration of such period such property passes, or income, or interest, becomes payable, such property shall be deemed for the purpose of this Act an interest in possession passing at the death of the deceased and the duty thereon, or on the transmission thereof, shall be payable within six months thereafter. 1934, c. 55, s. 14 (6).

Where person has general power of appointment.

(8) The duty on property passing upon the death or in respect of a disposition of property in respect to which any person is given such a general power to appoint as would, if he were *sui juris*, enable him to dispose of the property as he thinks fit, whether the power is exercisable by instrument *inter vivos* or by will or both, or the duty on the transmission or disposition of such property, shall be paid in the same manner and at the same time as if the property itself had been given to the donee of the power. 1934, c. 55, s. 14 (7); 1937, c. 3, s. 12 (4).

Certificate of discharge to be given by Treasurer.

(9) When the duty, or any part thereof, has been paid or secured to the satisfaction of the Treasurer, he shall, if required by the person accounting for the duty, give a certificate to that effect, which shall discharge from any further claim for such duty the property mentioned in the certificate; provided the Treasurer shall not be bound to grant such certificate until the expiration of one year from the death of the deceased.



(10) Such certificate shall not discharge any person or property from the duty in case of fraud or failure to disclose material facts, and shall in no wise affect the rates of duty which may be applicable under the provisions of this Act or any other Act; provided that a certificate purporting to be a discharge of the whole duty payable in respect of any property included in the certificate shall exonerate from duty such property or any part thereof in the hands of a *bona fide* purchaser for valuable consideration without notice. 1934, c. 55, s. 14 (8, 9). Certificate not a discharge in case of fraud, etc.

**24.**—(1) When the property of a deceased person includes any interest in expectancy, the duty on such interest, or on the transmission of same, may be paid within the periods provided for by section 23, and when so paid, the duty shall be on the basis of the value of such interest, ascertained as provided herein as at the death of the deceased. Time for payment of duty on interest in expectancy.

(2) With the consent in writing of the Treasurer, the duty may be paid after the time so limited and before such interest comes into possession; but if such consent is given the duty shall then be on the basis of a value not less in any event than the value of such interest in expectancy ascertained as provided herein as at the date when the duty is paid, and no deduction shall be made by reason of duty paid or payable on any prior estate, income or interest, or on the transmission thereof. Payment after time limited.

(3) In the case of any interest in expectancy, the duty, if not sooner paid, shall be due forthwith when such interest comes into possession, and payable within three months thereafter, in which case the duty shall be on the basis of the fair market value of such interest as at date of its falling into possession, and no deduction shall be made by reason of any duty paid or payable on any prior estate, income or interest, or on the transmission thereof, and, if such duty is not so paid, interest at the rate of six per centum per annum shall be charged and collected thereon from the date when such interest in expectancy came into possession; provided that when such interest in expectancy includes any annuity or income whatsoever, then, in the case of such annuity or income, the duty (if any) shall be paid in four equal consecutive annual instalments, payable respectively, one, two, three and four years from the date that such annuity or income commenced to be enjoyed, and the provisions in section 23 with reference to interest penalty and method of payment of duty, when annuitant or tenant of income dies, or when there is a cessation or reduction of the annuity or income, shall Proviso.

apply *mutatis mutandis*, to the duty on annuities or incomes, provided for in this subsection.

Where no person presently beneficially entitled.

(4) Subject to the provisions of subsection 7 of section 23, when any property so passes that no person is beneficially entitled to the present enjoyment of the income or any part thereof for any term of years or other period, whether certain or uncertain, then, in the case of such income or part thereof, the duty (if any) shall be on the basis of the value of same at the death of the deceased, computed as provided by section 21 and shall be payable within one year after such death, and such duty, if not so paid, shall be subject to same interest penalty as is first provided by section 23.

Commutation of duty.

(5) Notwithstanding anything herein contained, an executor or person who has the custody or control of the property of a deceased person, may, with the consent of the Treasurer, commute the duty on any interest in expectancy before such interest falls into possession of the legatee, devisee, or other person beneficially entitled thereto, and such commutation shall be on the basis of the value of such interest at the time such consent is given ascertained as provided by section 21 and, on receipt of the duty according to the commutation, the Treasurer shall give a certificate of discharge from such duty.

Interest in expectancy to be charged with duty paid.

(6) When, in the case of any interest in expectancy, the duty has been commuted and paid under the provisions of this section before such interest in expectancy falls into possession, the duty so paid shall be charged on such interest in expectancy, and shall be repaid with interest at the rate of four per centum per annum to the person who has paid the same by the person entitled to such interest in expectancy at the time when such interest comes into possession.

Composition by Treasurer for duty payable in certain cases.

(7) Where it appears to the Treasurer that, by reason of the number of deaths on which property has passed, or of the complicated or contingent nature of the interests of different persons in property passing on the death, it is difficult to ascertain exactly the rate or amount of duty payable in respect of any property or any interest therein or on the transmission thereof, or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Treasurer on the application of any person accountable for any duty thereon, or on the transmission thereof, and upon his furnishing all the information in his power respecting the value of the property and the several interests therein, and other circumstances of the case, may, by way of composition for all or any duty payable in respect of the property or interest,

and the various interests therein, or any of them, or on the transmission thereof, assess such sum on the value of the property or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed in full discharge of all claims for duty in respect of such property or interest, or on the transmission thereof, and shall give a certificate of discharge accordingly. 1934, c. 55, s. 15.

**25.**—(1) No executor or trustee, as such, shall become personally liable for any duty whatsoever provided for by this Act, but an executor, trustee or other person in whom any interest in any property passing on the death, or the management thereof, is at any time vested, shall not transfer such property to the person beneficially entitled thereto without deducting therefrom the duty (if any) for which such person is liable and any executor, trustee or other person who transfers such property without deducting such duty therefrom shall pay to the Treasurer, as a penalty, the amount of such duty and interest thereon together with an additional fifty per centum of the amount of such duty and such combined amounts shall be recoverable against the executor, trustee or other person so chargeable.

Non-personal liability of executors.

Not to transfer property until duty paid.

(2) Every sum of money retained by an executor or trustee or paid into his hands for the duty on any property or on the transmission thereof shall be paid by him forthwith to the Treasurer, or as he may direct.

Money retained by executor to be paid over to Treasurer.

(3) Such executor and trustee shall for the purpose of the collection and payment of any duty which under the provisions of this Act it is his duty to collect and pay over to the Treasurer be deemed to be an officer for the collection thereof within the meaning *The Public Revenue Act*.

Responsibility of executor and trustee to Crown.

Rev. Stat. c. 23.

(4) Any person who may be required to pay the duty in respect of any property which has come into his possession, or is vested in him or is under his control shall, for the purpose of paying such duty or raising the amount of the duty when already paid, have power to raise the amount of such duty and any interest and expense properly paid or incurred by him in respect thereof by sale, mortgage or lease of so much of the property as may be necessary for such purpose. 1934, c. 55, s. 17.

Persons liable to duty may raise same by sale, etc.

**26.** Where any debts shall be proven against the estate of a deceased person, after the payment of legacies or distribution of property from which the duty has been deducted, or

Refunding duty upon subsequent payment of debts.

upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the duty so paid shall be repaid to him by the executor, if such duty has not been paid to the Treasurer, or by the Treasurer if it has been so paid. 1934, c. 55, s. 18.

Fees of  
judges and  
registrars.

**27.** The judges and registrars of the several surrogate courts and solicitors practising therein shall be entitled to take for the performance of duties and services under this Act, similar fees to those payable to them for the like services under and by virtue of *The Surrogate Courts Act* and the surrogate court rules. 1934, c. 55, s. 19.

Rev. Stat.,  
c. 106.

Recovery of  
duties by  
action.

**28.—(1)** Any duty payable under this Act shall be recoverable with full costs as a debt due to His Majesty from any person liable therefor by action in or on summary application to any court of competent jurisdiction.

Matters to  
be  
determined  
by Supreme  
Court in  
action.

**(2)** The Supreme Court shall also have jurisdiction to determine what property, and what transmissions of property are liable to duty under this Act, the amount of such duty, and the time or times when the same is payable, and may itself, or through any referee, exercise any of the powers conferred upon any officer or person by this Act.

Action may  
be brought  
before time  
for payment  
of duty.

**(3)** An action may be brought for any of the purposes in this Act mentioned, notwithstanding the time for the payment of the duty has not arrived, subject to the discretion of the court as to costs.

Production  
of docu-  
ments,  
examination  
of witnesses,  
etc.

**(4)** In every such action His Majesty's Attorney-General shall have the same right, either before or after the trial, to require the production of documents, to examine parties or witnesses, or to take such other proceedings in aid of the action as a plaintiff has in an ordinary action.

Court may  
make order  
for attend-  
ance and  
examination.

**(5)** The court before which any such action is pending may on the application of the Attorney-General, make such order for the attendance and examination of any person or an officer or servant of any corporation (whether or not such person or corporation is a party to the action) for discovery or otherwise as the court may deem expedient, and may direct the person or persons to be examined, to make production upon oath of any books, papers or other writings or documents which may be in the possession or control of such person or persons or of any corporation; provided that where any such person or corporation is out of Ontario the court may make an order for such examination or for the issue of a commission or letters of request in a like manner and with the like effect



as a similar order may be made for the examination of witnesses for use at the trial of an ordinary action; and provided further that this subsection shall apply to actions instituted after the 1st day of January, 1932. 1934, c. 55, s. 20.

**29.** Where duty is claimed in respect of any land, or money secured by mortgage, or charge upon land, the Treasurer may cause to be registered in the proper registry office, or in the proper office of land titles, if the land is registered under *The Land Titles Act*, a caution claiming duty in respect of such land, mortgage, or charge by reason of the death of the deceased and the land, mortgage or charge, shall upon such registration be subject to the lien of the Crown for duty, but nothing herein contained shall affect the rights of the Crown to a lien independently of the caution. 1934, c. 55, s. 21.

Caution.  
Rev. Stat.,  
c. 174.

**30.**—(1) Whether or not any inventory as required by this Act has been filed, and whether or not any property has been omitted from any such inventory, the Treasurer may appoint a commissioner or commissioners with full power to make all inquiries, examinations or investigations of any person who, it is alleged, is or has been in possession of any property passing on the death, or property in respect of which there is a disposition, of a deceased person within the meaning of this Act or has or has had any knowledge or information respecting any such property, or is or has been in possession, power or control of any book, bank-book, pass-book, bank account, deposit account with any trust company or other institution, record, entry, memorandum, instrument, evidence of title, or other documents or papers, of or relating to such property, and to examine, inspect or investigate any or all such books, bank-books, pass-books, bank accounts, deposit accounts, records, entries, memoranda, instruments, evidences of title or other documents or papers, in order to determine or to assist in determining what, if any, of such property or the transmission or disposition of any property, is or may be subject to duty under the provisions of this Act; to fix and settle the value of the property passing on the death or deemed to be passing on the death of a deceased person within the meaning of this Act, or disposition of property, for the purposes of duty, and the amount of debts, deductions and other allowances and exemptions; to assess the cash value of every annuity, term of lease, term of years, life estate, income or other estate or interest in expectancy as provided by this Act, and to settle the amount of duty, and determine the persons liable therefor, and generally to make inquiry as to any matter or thing affecting or which in the opinion of the commissioner, might affect duty. 1935, c. 67, s. 9 (1), *part*; 1937, c. 3, s. 13 (1).

Appoint-  
ment of  
Com-  
missioner to  
inquire into  
estate.



Powers of  
commis-  
sioner.

Rev. Stat.,  
c. 19.

(2) The commissioner shall, for the purposes of this section, have all the powers of a judge of the Supreme Court at the trial of an action, and all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*, and shall also have power to require any such person to attend at a time and place designated, and to submit to examination under oath touching any such matters mentioned in subsection 1, and to require the production at such hearing, or otherwise upon oath, of all such books, bank-books, pass-books, bank accounts, deposit accounts, records, entries, memoranda, instruments, evidences of title or other documents as are mentioned in said subsection 1, such attendance or production, upon oath or otherwise, to be upon three days' notice in writing to be served in such manner and upon such persons as the commissioner may direct. 1935, c. 67, s. 9 (1), *part*.

Further  
powers.

(3) The commissioner shall also have power, upon such examination or at any time whatsoever, whether or not an examination is pending, to make inquiries concerning:

- (a) any property taken or alleged to have been taken, under a disposition;
- (b) the source of any property belonging to a beneficiary of a deceased person or in which such beneficiary had any beneficial interest whatsoever;

and the commissioner shall also, for the purposes of this subsection, have power to examine, inspect and make extracts from any book, bank-book, pass-book, bank account, deposit account with any trust company or other institution, record, entry, memorandum, instrument, evidence of title, or other documents or papers. 1935, c. 67, s. 9 (1), *part*; 1937, c. 3, s. 13 (2).

Taking  
evidence  
*de bene esse*  
or by  
commission.

(4) Where the Treasurer or any person interested desires to produce for use before the commissioner the evidence of any person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action.

(5) The evidence of the witnesses taken before such commissioner shall be taken down in writing and shall, at the request of either party, be transmitted by the commissioner to the Central Office at Osgoode Hall.

Evidence to  
be taken  
down.

(6) A commissioner may, with the consent of the Official Guardian, appoint for the purposes of this Act, a guardian of any infant who has no guardian.

Appoint-  
ment of  
guardian  
for infant  
parties.

(7) The costs of proceedings shall be paid as directed by the commissioner

Costs.

(8) The report of the commissioner may be filed in the Central Office of the Supreme Court at Osgoode Hall, in the City of Toronto.

Filing  
report of  
commission.

(9) Upon the report being so filed, it shall become a judgment of the Supreme Court, and may be enforced in the same manner and by the like processes as if the judgment had been made by a judge of the Supreme Court at the trial of an action.

Report to  
become a  
judgment.

(10) The judgment shall be entered in the same manner as a judgment of the court at the trial. 1934, c. 55, s. 22 (4-10).

Entry of  
judgment.

(11) Either the Treasurer or any person interested may appeal from the said judgment to the Court of Appeal, but there shall be no further or other appeal. 1934, c. 55, s. 22 (11); 1931, c. 24, s. 2.

Appeal to  
Court of  
Appeal.

(12) Rules of court for the better carrying out of the purposes of this Act and the regulation of practice thereunder, including the practice of any appeal, may be made by any authority to whom is committed the power of making rules of court ; but until such rules are made the practice shall be governed by the rules of the Supreme Court. 1934, c. 55, s. 22 (12).

Rules of  
procedure.

(13) The powers of a commissioner under this section may also be exercised by any other person or persons appointed or authorized by the Treasurer to act for the purposes of this section. 1935, c. 67, s. 9 (2).

Other  
persons  
may be  
authorized  
to inquire.

Lieutenant-Governor in Council may make regulations.

**31.** The Lieutenant-Governor in Council may make rules and regulations for carrying into effect the provisions of this Act, and such rules and regulations shall be laid before the Assembly forthwith, if in session at the date of such rules and regulations, and if not then in session such rules and regulations shall be laid before the Assembly within the first seven days of the session next after the same are made. 1934, c. 55, s. 23.

Ontario bonds, etc., duty free.

**32.** Where any property passing on the death of a person includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any Statute of Ontario exempting them from duty, or a beneficial interest therein, and there is no specific bequest or disposition thereof, notwithstanding anything in this or any other Act contained such bonds, debentures, inscribed stock or other securities shall, for the purposes of this Act, be deemed to be distributed *pro rata* among all heirs, legatees, beneficiaries or next-of-kin, other than legatees of specific property, and shall be directly chargeable with any indebtedness for which the same are pledged as collateral or other security and shall bear *pro rata*, a proportion of the other debts and deductions allowed under section 3. 1937, c. 3, s. 14.

Distribution *pro rata*.

Indebtedness to be charged to duty free securities.

Declarations and affidavits.

**33.** Declarations or affidavits in connection with returns filed under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant-Governor in Council, but any person so specially authorized shall not charge any fee therefor. 1934, c. 55, s. 25.

Treasurer may reopen estates, etc.

**34.** Notwithstanding anything in this Act or in any other Act contained, and notwithstanding that any officer or servant of the Crown shall have made at any time, any decision, whether of law or fact, or any ruling, valuation or settlement, or shall have given, at any time, any consent, receipt, discharge, certificate or other document in any matter which in any way relates to any estate or property or transmission or disposition, which may be subject to duty, and whether relating to the liability to duty, the valuation for purposes of duty, the rate of duty, the payment of interest, the extension of time for payment of duty, or otherwise, the Treasurer may, in such cases as may to him seem proper, re-open, revoke, revise, alter, recall or change any such decision, ruling, valuation, settlement, consent, receipt, dis-

charge, certificate or other document and may deal with such matter, to the same extent as though such officer or servant had not so made such decision, ruling, valuation, or settlement, or so given such consent, receipt, discharge, certificate or other document. 1935, c. 67, s. 10, *part*; 1937, c. 3, s. 15 (1).

**35.** Where an executor or trustee has, in good faith, transferred any property of a deceased person to the person beneficially entitled thereto before the Treasurer takes any action in accordance with section 34, and where before making such transfer he shall have deducted from the property transferred, or otherwise paid, the duty, if any, for which the beneficiary would have been liable if such duty were not affected by any action of the Treasurer as aforesaid, then, notwithstanding the provisions of subsection 1 of section 25, such executor or trustee shall not be personally liable for any penalty on account of such transfer. 1937, c. 3, s. 16, *part*. Exemption from penalty.

**36.** Subject to the provisions of section 18 of this Act, section 56 of *The Registry Act* and section 62 of *The Land Titles Act* but notwithstanding the provisions of sections 23, 29 and 34 of this Act, no property or any interest therein which has been acquired by or transferred to any person in good faith for valuable consideration and without notice, shall be subject to any lien or charge for duty imposed by this Act. 1937, c. 3, s. 16, *part*. Certain property to be free from lien or charge. Rev. Stat. cc. 170 174

**37.** When any payment is made to the Treasurer it shall first be applied on any interest which may have accrued on the duty, notwithstanding any stipulation to the contrary. 1937, c. 3, s. 16, *part*. Payment on account of duty to be first applied against interest.

**38.** Every person who wilfully makes any false statement in any statement, return, instrument, letter, note, telegram or other document or paper writing required by, filed with, mailed to or otherwise furnished to the Treasurer or to any officer or employee of the Government of Ontario in connection with any property passing on the death or property deemed to be property passing on the death of or any disposition of property by a deceased person, or in connection with any of the provisions of this Act, shall be guilty of an offence and liable to a penalty of not less than \$1,000 and not exceeding \$10,000 or to imprisonment for a period not ex- Penalties for false statements.



ceeding two years or to both fine and imprisonment. 1937, c. 3, s. 16, *part.*

Secrecy.

**39.**—(1) All information and material furnished to or received by the Treasurer under the provisions of this Act shall be confidential and no person shall communicate or allow to be communicated any such information to, or allow access to or inspection of any such material by any person other than the persons mentioned in subsection 1 of section 19, or the executor of the estate of a deceased person or the duly authorized solicitor or agent of such person or executor or any other person who may be entitled thereto in the course of his duties when acting on behalf of the Treasurer.

Penalty.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding \$200. 1937, c. 3, s. 16, *part.*

When  
information  
may be laid

**40.** Any information or complaint with respect to an offence against the provisions of this Act, may be laid or made within five years from the time when the matter of the information or complaint arose. 1937, c. 3, s. 16, *part.*

Penalties,—  
how recover-  
able.  
Rev. Stat.,  
c. 136.

**41.** The penalties imposed by this Act may be recovered under *The Summary Convictions Act* and shall be payable to the Treasurer. 1937, c. 3, s. 16, *part.*

Relief  
from  
penalties.

**42.** The Lieutenant-Governor in Council may remit in whole or in part any of the penalties imposed by this Act. 1937, c. 3, s. 16, *part.*

Preservation  
of records.

**43.**—(1) No person, acting in the administration of the property, having in his custody any documents, records or paper writings relating to any property passing on the death of a deceased person or any disposition made by such person in his lifetime, where the aggregate value exceeds \$50,000, shall destroy, mutilate or deface or cause or permit the destruction, mutilation or defacement of any of such documents, records or paper writings without first obtaining the written consent of the Treasurer.

Penalty.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence and liable to a penalty of not less than \$1,000 and not exceeding \$10,000. 1937, c. 3, s. 16, *part.*



44. Save as to the rate of duty, the liability for duty of any property transferred *inter vivos*, any action or reference heretofore determined in any court or as to any estate upon which the duty has been fully paid and satisfied and subject to the provisions of subsection 2 of section 23, and to the provisions of subsection 5 of section 28, and to the provisions of section 11 of *The Succession Duty Amendment Act, 1935*, and section 19 of *The Succession Duty Amendment Act, 1937*, this Act shall be deemed to be and to declare the law relating to succession duty, since the 1st day of July, 1892; and it is hereby declared that notwithstanding anything in this Act or in any Act whatsoever contained, the rights of the Crown as to all rates of duty, as to duty on property transferred *inter vivos*, as to any action or reference as aforesaid, as to any estate upon which the duty has been fully paid and satisfied, or as to any other matter or thing whatsoever which were acquired, or which accrued by virtue of any statute, or by virtue of any court decision whatsoever, shall in no wise be affected, and the provisions respecting all rates of duty and the liability for duty of any property transferred *inter vivos* which shall be applicable in any given estate, shall be those which were in force at the date of the decedent's death. 1934, c. 55, s. 27.

Act to be  
retroactive  
with certain  
exceptions.

Rights of the  
Crown to be  
preserved.

Provisions  
re rates of  
duty and  
duty on  
gifts *inter  
vivos*.

45. Any payment which shall have been made to the Treasurer before the coming into force of this Act and purporting to be in full of, on account of, or as security for duty on any property whatsoever, shall be deemed to have been made in accordance with the rights of the Crown and such rights shall be deemed to have fully accrued and to have been acquired by the Crown at the time such payment was made, and the provisions of section 44 respecting the rights of the Crown shall extend to this section. 1934, c. 55, s. 28.

Payment  
deemed to be  
according  
to rights of  
Crown.

46. In cases where the deceased died before the 8th day of March, 1937, the provisions of *The Succession Duty Act, 1934*, as amended by *The Succession Duty Amendment Act, 1935*, and subsection 2 of section 2, section 3, subsections 2 and 3 of section 4, section 9, subsection 3 of section 12 and section 14 of *The Succession Duty Amendment Act, 1937*, and sections 35, 36 and 37 of this Act, shall apply and in cases where the deceased died on or after the 8th day of March, 1937, the provisions of this Act shall apply. 1937, c. 3, s. 17.

Application  
of Act,  
1934, c. 55;  
1935, c. 67;  
1937, c. 3.

Insurance  
in trust  
for  
Treasurer,  
1934, c. 55.

**47.** Notwithstanding anything contained in *The Succession Duty Amendment Act, 1937*, the provisions of clause g of subsection 2 of section 6 of *The Succession Duty Act, 1934*, shall apply to any policy of insurance which prior to the 8th day of March, 1937, was made payable to the estate of the deceased in trust for the Treasurer for the purpose of providing money necessary to pay the duty on the estate of the deceased. 1937, c. 3, s. 18.

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## CHAPTER 27.

## The Law Stamps Act.

**1.** In this Act the words "fees" and "fee" shall mean the fees and charges mentioned in section 3. R.S.O. 1927, c. 27, s. 1. Interpretation.

**2.** The Lieutenant-Governor in Council may direct stamps to be prepared for the purposes of this Act, of such denominations and of such design, form, and colour as he may see fit. R.S.O. 1927, c. 27, s. 2. Issue. Form, etc.

**3.** The stamps shall be used in payment of fees and charges payable to the Crown upon legal proceedings under this or any other Act, and under any Order-in-Council or rule or order of any court. R.S.O. 1927, c. 27, s. 3. For what purposes stamps shall be used.

**4.** Money shall not be paid to or received by any court, or any officer of any court, for any fee. R.S.O. 1927, c. 27, s. 4. No money to be received for such fee.

**5.** No paper or proceeding upon which a fee is payable to the Crown shall be issued, received or acted upon by any court, or by any officer of any court, until a stamp for the amount of such fee has been affixed to the same. R.S.O. 1927, c. 27, s. 5. Stamps affixed.

*[Under The Surrogate Courts Act, Rev. Stat. c. 106, the law stamps for fees payable on a grant of probate or administration are affixed to the order for the grant. As to law stamps under The Land Titles Act, see Rev. Stat. c. 174.]*

**6.** No judge or officer of the court shall allow any action or step to be taken upon any document not duly stamped, although no exception is taken thereto by any of the parties. R.S.O. 1927, c. 27, s. 6. Unstamped documents.

**7.** In cases in which a fee is payable but a document is not required, the stamp shall be affixed to a memorandum retained by the officer. R.S.O. 1927, c. 27, s. 7. Fixing stamp to memorandum.

**8.** A sheriff, officer or other person shall not serve or execute any writ, rule, order or proceeding, or a copy thereof, upon which a fee is payable, which is not duly stamped. R.S.O. 1927, c. 27, s. 8. Officers not to serve unstamped process.

When  
further  
stamp  
required.

**9.** A paper or proceeding which has been duly stamped for the purpose for which it has been used shall not be considered as stamped for any other purpose, where another fee is payable thereon for any other or further use of the same. R.S.O. 1927, c. 27, s. 9.

Supplying  
innocent  
omission.

**10.**—(1) A person who has omitted to duly stamp a paper or proceeding may apply to the court or to a judge thereof for leave to have the same duly stamped, and where this Act has not been wilfully violated, the application shall, on such terms as may be deemed proper, be granted for the stamping of such paper or proceeding with stamps of such amount beyond the fee due thereon as may be thought reasonable, not exceeding ten times the amount of the fee.

Retroactive  
effect of  
order.

(2) The affixing of the stamps shall have the same effect as if the paper or proceeding had been duly stamped in the first instance. R.S.O. 1927, c. 27, s. 10.

Duty of  
inspector.

**11.**—(1) Where the officer inspecting legal offices finds a paper or proceeding which should have had stamps affixed to it, not stamped, or insufficiently stamped, he shall require the officer whose duty it was to see that it was properly stamped, to affix to such paper or proceeding stamps of a sufficient amount.

Effect of.

(2) The officer directing stamps to be affixed shall cancel them, and the affixing of such stamps by direction of the officer shall have the same effect as if the paper or proceeding had been duly stamped in the first instance. R.S.O. 1927, c. 27, s. 11.

Duty of  
officer  
to cancel.

**12.** When a stamp has been affixed to a paper or proceeding the officer who issues or receives it, shall forthwith cancel the stamp by perforation or in such other manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 27, s. 12.

Supply and  
account of  
stamps.

**13.** The Treasurer of Ontario shall procure the stamps required under this Act, and shall keep an account of the numbers, denominations and amounts thereof, and of the dates at which they are procured. R.S.O. 1927, c. 27, s. 13.

Issue of.

**14.** The Treasurer, upon payment to him of the proper amount, shall issue such stamps as may be required, and shall keep an account of the numbers, denominations and amounts thereof, and of the dates of issue. R.S.O. 1927, c. 27, s. 14.

**15.** Subject to the provisions hereinafter contained, the Treasurer may allow to any person who takes at any one time stamps to the amount of \$5 or upwards, a discount not exceeding five per centum. R.S.O. 1927, c. 27, s. 15.

Allowance to be made to purchasers.

**16.** The Lieutenant-Governor in Council may make arrangements with any person for the exclusive sale of stamps to him in any locality, and for such time as he may think fit, at a discount, not exceeding five per centum, and in such case the Treasurer shall not issue stamps to any other person in the locality specified in the Order-in-Council. R.S.O. 1927, c. 27, s. 16.

Appointment of vendor of stamps in any locality.

**17.** Where an arrangement under section 16 is made with any person for the sale of stamps, he shall at all times keep on hand such a supply of the different denominations as may be reasonably expected to be required of him, and shall sell the same to all persons upon payment of the amount of such stamps; and for any violation of this section he shall incur a penalty not exceeding \$20, and shall also be liable for the damages sustained by any person through such violation. R.S.O. 1927, c. 27, s. 17.

Obligations of vendors of stamps.

Penalty.

**18.** The Lieutenant-Governor in Council may make regulations for an allowance for stamps spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no immediate use, or which through mistake or by inadvertence may have been improperly or unnecessarily used, and such allowance shall be made either by giving other stamps in lieu of the stamps allowed for, or by repaying the amount thereof, after deducting the discount, if any, allowed on the sale of stamps to the like amount. R.S.O. 1927, c. 27, s. 18.

Allowance for stamps spoiled or returned.

**19.** A person who wilfully issues, receives, procures or delivers, or serves or executes any writ, rule, order, paper or proceeding upon which any fee is payable to the Crown without the same having been first duly stamped, shall for the first offence incur a penalty not exceeding \$10, for the second offence not exceeding \$50, and for the third and every subsequent offence \$200, and in default of payment shall be liable to be imprisoned for a period not exceeding one month for the first offence, three months for the second offence, and one year for the third or any subsequent offence, unless in each case the penalty and costs are sooner paid. R.S.O. 1927, c. 27, s. 19.

Penalty for issuing, etc., any writ or proceeding without having it duly stamped.

**20.** A person who omits to cancel any stamp in the manner and at the time hereinbefore provided shall incur a penalty not exceeding \$20. R.S.O. 1927, c. 27, s. 20.

Penalty for not properly cancelling stamps.



*Prima facie*  
evidence of  
non-stamp-  
ing.

**21.** The production of any writ, rule, order, paper or proceeding not stamped, or insufficiently stamped, or the stamp of which is not properly cancelled, or the proof that it was not stamped or was not sufficiently stamped at the time when it was issued, received, served or executed, or that the stamp was not properly cancelled, shall be sufficient *prima facie* evidence of such writ, rule, order, paper or proceeding having been wilfully issued, received, served or executed without having been first stamped, or without the stamp having been properly cancelled. R.S.O. 1927, c. 27, s. 21.

Regulations  
re fees  
payable to  
Crown.

**22.** Notwithstanding anything contained in any other Act the Lieutenant-Governor in Council may make rules and regulations from time to time regulating and fixing all fees payable to the Crown in respect of proceedings in any court. 1932, c. 53, s. 3.

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## CHAPTER 28.

## The Mining Tax Act.

## 1. In this Act,—

Interpretation.

- (a) "Mine" shall mean any opening in or working of the "Mine." ground from or by which metalliferous ore or other solid mineral substance is taken, and shall include the mining claim, mining location, or other the whole parcel of land or mineral in which any such workings are being or have been carried on, but the term "mineral substance" or "mineral workings" shall not include limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes, or non-auriferous sand or gravel;
- (b) "Mine assessor" shall mean and include any officer "Mine assessor." of such designation appointed under the authority of this Act and any other officer or person appointed or directed by the Minister to perform any duty or exercise any power or authority by this Act specified or provided to be performed or exercised by a mine assessor;
- (c) "Minister" shall mean Minister of Mines; "Minister."
- (d) "Output" when used in reference to a mine shall "Output." mean all ores or other solid mineral or mineral-bearing substances raised, taken or gained from any mine or land in Ontario, and which have been sold, or have been removed from the mining premises where produced, or have been treated or partially treated at any smelter, mill or refinery on the mining premises from which they were taken;
- (e) "Person" shall include corporation, company, syn- "Person." dicate, trust, firm, partnership, co-owners, or party, and the heirs, executors, administrators or other legal representatives of such person if the context can apply thereto;
- (f) "Preceding year" shall mean the year ending on the "Preceding year." 31st day of December next before the time when the taxes hereby imposed are payable. R.S.O. 1927, c. 28, s. 1.

## IMPOSITION, ACCRUAL AND PAYMENT OF TAXES.

Tax to be  
paid to  
Crown.

2. There shall be paid to His Majesty for the uses of Ontario in and for each and every year, at the time and in the manner hereinafter provided, the several taxes in this Act specified. R.S.O. 1927, c. 28, s. 2.

Accrual of  
tax.

3. The taxes imposed by this Act shall be deemed to accrue on the 1st day of January of the year in which the same are payable, and shall become payable on the 1st day of October in each year and shall be paid to the Minister. R.S.O. 1927, c. 28, s. 3.

## PART I.

Tax on  
profits.

4.—(1) Every mine in Ontario, the annual profits of which exceed \$10,000 shall be liable for, and the owner, manager, holder, tenant, lessee, occupier, and operator of the same shall pay an annual tax as follows,—

- (a) Three per centum on the excess of annual profits of such mine above \$10,000 and up to \$1,000,000;
- (b) Five per centum on the excess above \$1,000,000 and up to \$5,000,000; and six per centum on the excess above \$5,000,000. R.S.O. 1927, c. 28, s. 4 (1); 1930, c. 21, s. 3.

Mines  
worked  
together.

(2) For the purpose of this section all mines and mineral workings in Ontario occupied, worked or operated by the same person, or under the same general management or control, or the profits of which accrue to the same person, shall for the purpose of determining whether there is liability to taxation hereunder, be deemed to be and be dealt with as one and the same mine, and not as separate mines.

Ascertain-  
ment of  
profits.

(3) The annual profits shall be ascertained and fixed in the following manner, that is to say: The gross receipts from the year's output of the mine, or in case the ore, mineral or mineral-bearing substance or any part thereof is not sold, but is treated by or for the owner, tenant, holder, lessee, occupier, or operator of the mine upon the premises or elsewhere, then the actual market value of the output at the pit's mouth, or if there is no means of ascertaining the market value, or if there is no established market price or value, the value of the same as appraised by the mine assessor shall be ascertained, and from the amount so ascertained, the following, and no other, expenses, payments, allowances or deductions, shall be deducted and made, that is to say:

- (a) The actual cost of transportation of any output sold <sup>Deductions.</sup> if paid or borne by the owner, tenant, holder, lessee, occupier, or operator;
- (b) The actual and proper working expenses of the mine, both underground and above ground, including salaries and wages of necessary superintendents, captains, foremen, workmen, firemen, enginemen, labourers, and employees of all sorts employed at or about the mine, together with the actual and proper salaries and office expenses for necessary office work done at the mine, and in immediate connection with the operation thereof;
- (c) The cost of supplying power and light, and of hire of horses used in the mining operation or in handling the ore or mineral;
- (d) The actual cost price of food and provisions for all employees aforesaid, whose salaries or wages are made less by reason of being furnished therewith, and of fodder for horses used as above mentioned;
- (e) The actual cost price of explosives, fuel, and any other supplies necessarily consumed in the mining operations;
- (f) Any actual and proper outlay incurred in safeguarding or protecting the mine or mineral product;
- (g) The cost of proper insurance upon the outfit if paid or borne by the owner, tenant, holder, lessee, occupier or occupant and upon the mining plant, machinery, equipment, and buildings used for or in connection with the actual mining operations, or for storing the ore or mineral;
- (h) An allowance of a sum for annual depreciation, by ordinary wear and tear, of the said plant, machinery, equipment, and buildings, such sum to be based upon the probable annual average cost of repairs and renewals necessary to maintain the same in a condition of efficiency, and in no case to exceed for any year fifteen per centum of the value at the commencement of such year, such value to be appraised by the mine assessor;
- (i) The cost of actual work done in sinking new shafts, making new openings, workings, or excavations of

any kind, or of stripping or trenching, in or upon the lands upon which the mine is situated, or upon any other lands belonging to the same owner, lessee, holder, tenant, occupier, or operator in Ontario, such work having for its object the opening up or testing for ore or mineral; provided, however, that such expenditure is *bona fide*, and actually made or borne by the person or persons liable, or who would but for this provision be liable for taxation upon the said mine under this Act, and that separate accounts of such expenditure are kept and an affidavit or affidavits giving reasonable details of the nature, extent, and location of such work shall be furnished to the Department of Mines with the annual statement hereinafter provided for;

- (j) All taxes payable or profits taken under any Act of the Parliament of the United Kingdom (in so far as the same are referable to operations carried on in the United Kingdom) or of the Parliament of the Dominion of Canada, upon or from the profits of the mine or mining work or upon or from the profits made in smelting, refining, or otherwise treating any of the products of the mine or mineral work.

Capital  
not  
deducted.

(4) No allowance or deduction shall in any case be made for cost of plant, machinery, equipment, or buildings, nor for capital invested, nor for interest or dividend upon capital, or stock or investment, nor for depreciation in the value of the mine, mining land, or mining property by reason of exhaustion or partial exhaustion of the ore or mineral, but this shall not restrict the generality of anything hereinbefore in this section contained.

Based on  
preceding  
year.

(5) For the purpose of this section, unless a contrary intention appears, the operations, business, matters, and things carried on, occurring, or existing during the preceding year shall be taken as the basis of fixing, assessing, and ascertaining the taxation hereunder, but the tax payable shall nevertheless be deemed to be a tax for the calendar year in which it is payable. R.S.O. 1927, c. 28, s. 4 (2-5).

Duty to give  
notice of  
active  
operations.

5.—(1) The owner, lessee, tenant, holder, occupier, manager, and operator of every mine from which ore, minerals, or mineral-bearing substances is or are being taken, shall within ten days after the commencement of such active operations, notify the Department of Mines of the fact that such mine is in active operation, and shall give in such notice the name



of the mine, and the name and address of the owner, lessee, tenant, holder, occupier, manager, and operator of such mine, and the name and address of the manager, or of some other person, to whom notices to be given under this Act may be sent (to be known as the name and address for service), and shall forthwith notify such Department of every change in the name and address of such manager or person, and of every change in the ownership, holding, tenancy, management, occupation, or operation of such mine, and of every discontinuance of active operations, and of every recommencement thereof after discontinuance.

(2) From the information so given, and from any other available source, the Department of Mines shall prepare and keep a list showing all operating mines in Ontario, with the names and addresses and particulars as so notified and given (keeping in a distinct and separate column or place the name and address for service), and any notice or requisition required or provided for by this Act shall be deemed to have been properly and sufficiently given, and served if mailed by registered letter to the person whose name and address for service have been given, at such address, or in case such a name and address be not so notified, then if mailed by registered letter to the address which the official or person sending the notice or requisition thinks most likely to reach the proper person. R.S.O. 1927, c. 28, s. 5.

6. No person shall ship, send, take, or carry away, or permit to be shipped, sent, taken, or carried away from the mine from which the same has been taken, any ore, mineral, or mineral-bearing substance, or any product thereof, until such person has notified the Department of Mines that the mine from which the same has been taken is in active operation. R.S.O. 1927, c. 28, s. 6.

7.—(1) Every person liable to pay the tax imposed by section 4 shall, without any notice or demand to that effect, in addition to any other statements which may otherwise be required, on or before the 1st day of March in every year, deliver to the Department of Mines a detailed statement in which shall be set forth,—

- (a) the name and description of the mine;
- (b) the name and address of the person or persons owning, holding, leasing, managing, occupying, and operating the same;
- (c) the quantity of ore, minerals, and mineral-bearing

substances shipped or sent from or treated on the mining premises during the year ending 31st December last preceding;

- (d) the name or names of the smelter or mill and locality to which the same or any part thereof was sent;
- (e) the cost per ton for transportation to the smelter, refinery, or mill, and actual, proper, and necessary expenses of making sale, if any, and by whom paid or borne;
- (f) the cost per ton for smelter or mill charges, and by whom paid or borne;
- (g) the quantity of ore, minerals, and mineral-bearing substances treated on the mining premises during the said year;
- (h) the value of the ore, minerals and mineral-bearing substances shipped after deducting the charges for making sales, and for transportation or for treatment;
- (i) the value of the ore, minerals, and mineral-bearing substances treated on the mining premises;

And such statement shall also show in another column or columns, with reasonable detail, the various expenses, payments, allowances, and deductions which are proper to be made under the provisions of subsection 3 of section 4, and such statement shall show by way of summary the total receipts or market value at the pit's mouth of the year's output, as in this Act specified, and the total amount of expenses, payments, allowances, and deductions proper under this Act to be deducted therefrom, and the balance of profits for the year as in this Act provided, and may also show the amount or approximate amount of municipal income tax to be deducted under the provisions of section 13.

Statement to  
be attested  
on oath.

(2) Such statement and information required by this section shall be made and furnished by and under the oath of the owner, manager, holder, lessee, tenant, occupier, or operator of such mine; but the Department of Mines or any mine assessor may require such information and statement, or any part thereof, to be given or verified under oath by any other or others of such persons, or by any person connected with the ownership, operation, or management of any such mine, and may in addition to the particulars above detailed require

any other information, particulars, or statements that may be thought expedient, and such requisition or requisitions may be made at any time or times the same may be deemed proper.

(3) The Minister may enlarge the time for making such <sup>Extension</sup> return or statement. R.S.O. 1927, c. 28, s. 7.

8.—(1) Every person liable to pay the tax imposed by section 4 shall keep, at or near the mine, proper books of <sup>Books to be kept.</sup> account of the ore, minerals, or mineral-bearing substances taken from the said mine, containing the quantity, weight, and other particulars of the same and the value thereof, and showing the returns from the smelter, mill, or refining works, or other returns of the amounts derived from the sale of such ores, minerals, and mineral-bearing substances; and no ore, mineral or mineral-bearing substance taken out of any mine shall be removed therefrom or treated at any smelter, mill or refining works until the weight thereof shall have been correctly ascertained and entered in the said books of account; and such person shall also keep proper books showing each of the several expenses, payments, allowances or deductions mentioned in subsection 3 of section 4, and showing any other facts and circumstances necessary or proper for ascertaining the amount of the tax payable under section 4.

(2) If any doubt arises as to where such book or books <sup>Power of mine assess- or as to books.</sup> shall be kept, or as to how many, or what books shall be kept, the mine assessor shall determine the number and character of books to be kept and the place or places at which they shall be kept. R.S.O. 1927, c. 28, s. 8.

#### MINE ASSESSOR AND HIS DUTIES.

9. The Lieutenant-Governor in Council may from time to <sup>Mine assess- or and duties.</sup> time appoint one or more officers under this Act, to be known as a mine assessor or mine assessors, and the Minister may from time to time appoint any officer or person to perform for the time being, or to perform in any locality or in any special matter or case the duties of mine assessor, and every such officer or person shall be deemed an officer of the Department of Mines, and it shall be his duty, subject to the direction of the Minister, annually, and oftener if so required, to prepare lists and descriptions of and ascertain and report the facts and particulars concerning all mines, mining properties, and mining rights liable, or which might be liable, to taxation under this Act, and to furnish the same to the Department of Mines, and to make such investigations, and perform such other duties as are provided for by this Act, or as may be prescribed by the Minister. R.S.O. 1927, c. 28, s. 9.

Assessor  
may enter  
mines.

10. It shall be at all times lawful for any mine assessor to enter upon mining premises for the purpose of making inquiries, obtaining information, and otherwise performing his duties under this Act, and for any of these purposes he may descend all pits and shafts, and use all tackle, machinery, appliances, and things belonging to the mine as he shall deem necessary or expedient, and he shall have free ingress and egress to, from, and over all buildings, erections, and vessels used in connection with the workings, and he shall from time to time be allowed to take from the said mining premises such samples or specimens as he may desire for the purpose of determining by assay or otherwise the value of the ore, mineral, or mineral-bearing substances being taken therefrom, or any product thereof, and he shall have full and complete access to all books of account and letters kept or used for or in connection with the work and business of such mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by any assessor under the provisions of this section shall not be communicated or disclosed to anyone except so far as may be necessary for the purposes of this Act. R.S.O. 1927, c. 28, s. 10.

#### TAX ROLLS AND APPEALS.

Preparation  
of tax roll.

11.—(1) The Department of Mines or any mine assessor or other officer or person acting under the direction of the Minister in that behalf shall, as soon as practicable after the receipt of the returns and statements mentioned in section 7, prepare from them and from the lists, statements and reports of the mine assessor a tax roll showing all mines and persons liable for the taxes imposed by section 4, and showing the quantity and value of output for each mine, the amount of deductions therefrom under the various headings as far as practicable, the profits for which each mine and person is assessable, and the amount of tax payable by each, also any deduction entitled to be made therefrom by reason of payment of municipal income tax, and in making up the rolls the statement furnished pursuant to section 7 shall be *prima facie* evidence of the information required; but any default or defect in the furnishing of such statement or any omission therefrom shall not prevent the complete preparation of the roll, but in all cases the officer or person charged with the duty of preparing said roll may, subject to the approval of the Minister, make full and careful inquiry as to the correctness thereof, and may resort to all available sources of information within his control, and may make or order a mine assessor to make any investigation he deems fit, and may fix such amount as he believes to be just and correct; provided



that whenever a mine or person is assessed for a larger sum <sup>Proviso.</sup> than the statement shows liability for, notice thereof shall be given to such person, and such person shall be entitled within fifteen days from the mailing of such notice to appeal from the said assessment as hereinafter provided.

(2) When the time for filing such appeal has expired, <sup>Appeals.</sup> the cases appealed shall be marked or distinguished from the others on the said roll, and the roll shall thereupon be made up in duplicate, and the Minister shall by his signature authenticate the same as being the roll for the year, and subject to the determination of such appeals, and subject to any additions or alterations that may be made by or pursuant to any investigation that may be ordered or directed as hereinafter provided for, the said roll shall be final and conclusive as to the liability of the several mines and persons therein mentioned to pay the tax therein specified.

(3) An appeal, as provided for in subsection 1, shall be <sup>Notice of appeal.</sup> made by lodging with the Department of Mines within the time limited a notice in writing, stating that the appellant thereby appeals from the tax in question, and stating as far as practicable the grounds of such appeal or the particulars of objection to the tax, and such appeal shall be referred in writing by the Minister to the Mining Court or to the Ontario Municipal Board, to be tried and determined.

(4) The Minister, if in any case he sees fit, instead of having <sup>Investigation in lieu of appeal.</sup> the amount of the tax for any mine or person entered on the roll, as in subsection 1 mentioned, may direct in writing that the amount of the tax for which such mine or person is liable shall be ascertained and fixed by the Mining Court or by the Ontario Municipal Board, and the said Minister may at any time either before or after the said roll is made up and signed, and whether or not the mine or person in question is entered thereon for taxation, direct in writing that the truth or correctness of any statement furnished pursuant to section 7, or that the question of liability or amount of liability of any mine or person for the tax under this Act, shall be inquired into and investigated and reported upon by the Mining Court or the Ontario Municipal Board.

(5) The Mining Court or the Ontario Municipal Board <sup>Hearing of appeal.</sup> shall upon receiving any such direction or reference as in subsection 3 or subsection 4 mentioned, proceed to try and dispose of the appeal, or determine or inquire into and investigate the question or matter so referred or directed to be investigated, and for all and any of said purposes shall have the same power to enforce the attendance of witnesses, and



to compel them to give evidence, and produce documents and things, as is vested in any court in civil cases, and the decision of the Mining Court or the Ontario Municipal Board, after giving the parties an opportunity to be heard, shall for the purposes of this Act be final and conclusive as to the particulars therein mentioned, subject only as hereinafter in this section provided.

Costs.

(6) In any such proceedings or investigation, or on any appeal, the Mining Court or the Ontario Municipal Board may order the appellant, or the person causing the investigation by reason of false or incorrect statements, or failure to keep books and accounts or to otherwise conform to the provisions of this Act, to pay the costs of such appeal, proceeding or investigation, and may direct that the same be taxed by a taxing officer of the Supreme Court and added to the tax for which such person is liable under this Act; and in any case where the statement filed or furnished, pursuant to section 7, understates the amount on which the tax should be paid, the person making such false or incorrect statement shall pay double the tax to which he would otherwise be liable; but if it shall appear to the Mining Court or the Ontario Municipal Board that such understatement was not made with the intent or for the purpose of decreasing the amount of tax to be paid, but was made in good faith and with no improper motive, then in such case the Lieutenant-Governor in Council may, upon the recommendation of the Minister, remit so much of the added percentage and so much of the costs as may in his discretion seem just.

Filing  
decision.

(7) All decisions, findings and reports made pursuant to subsection 6 shall be filed with the Department of Mines, and notice of such filing shall forthwith thereafter be mailed by said Department of Mines to the owner or manager of the mine concerned.

Appeal to  
Court of  
Appeal.

Proviso.

(8) In any case where the amount of the tax involved exceeds \$1,000 an appeal shall lie from any decision, finding or report of the Mining Court or the Ontario Municipal Board under this section to the Court of Appeal; provided that notice of such appeal is lodged with the Department of Mines within fifteen days after the filing of said decision, finding, or report with the Department of Mines, and the procedure upon and governing such appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in an action, but leave shall not be necessary, and the decision of that court shall be final. R.S.O. 1927, c. 28, s. 11.

Notifying of  
tax.

**12.** It shall be the duty of the Department of Mines, or

the person charged with the collection of any tax imposed by section 4 to notify the owner or manager of the mine liable for such tax of the amount and time for payment thereof at least fifteen days prior to such date; but failure to comply with this provision shall not affect the liability for payment of any such tax at the time and in the manner in this Act provided; nor shall it prevent or affect the collection or enforcement thereof or the happening of any forfeiture or accrual of percentage or penalty for non-payment, or any other matter or thing whatsoever in this Act provided. R.S.O. 1927, c. 28, s. 12.

#### INCOME TAX MAY BE DEDUCTED.

**13.**—(1) Where a person liable for payment of a tax under section 4 in respect of a mine is also during any year in which such tax is payable liable for and paying to the municipality or municipalities in which such mine is situate, a tax upon income derived from such mine, he shall be entitled to deduct from the amount of the tax payable under the said section 4 the amount of such municipal income tax to the extent of an amount equal to one and one-half per centum of the annual profits upon which the tax payable under section 4 is based until a sum is reached which at the said rate of one and one-half per centum will yield \$35,000 and on the amount of such income in excess of a sum yielding at the said rate \$35,000, he shall be entitled to deduct an amount equal to one per centum of the remainder of the total annual profits subject to tax under this Act; and provided further that notice of the amount and proof of the liability for and payment of such municipal income tax is furnished to the mine assessor at such time and in such manner as he may require.

Allowance  
for income  
tax paid  
to muni-  
cipality.

(2) The said deduction for municipal income tax shall be that amount or part only of the tax under section 4 which arises from or is referable to the mine or mineral workings or part thereof actually situate within the municipality to which the municipal income tax is payable, notwithstanding that another part of what is under that section liable to taxation as a single mine, exists outside the municipality, and the mine assessor may at all times require any additional statements or returns to be made that he may deem necessary for fixing the portion of tax referable to the municipality. R.S.O. 1927, c. 28, s. 13.

Limitation  
upon deduc-  
tion for  
municipal  
income tax.

#### ACREAGE TAX.

**14.**—(1) Except as hereinafter provided,—

- (a) every mining location and mining claim in unorganized territory in Ontario, held either mediately or

Acreage  
tax.

immediately under patent granted or lease issued by the Crown under or pursuant to the provisions of any statute, regulation, or law at any time in force, authorizing the granting or leasing of Crown lands for mining purposes; and

- (b) all mining rights, whether of all kinds or only one or more kinds of mines or minerals howsoever granted or acquired, owned, or held under lease, agreement, or option, in any lands in Ontario, by any person not owning the surface rights in said lands;

shall be liable for, and the owner, holder, lessee and occupier thereof shall pay an acreage tax of five cents per acre in each year.

Farmed land  
exempt.

(2) No such tax shall be payable in respect of such acreage as was during the preceding year actually and *bona fide* in use for farming purposes, or occupied by buildings, or reasonably required or used in connection with such farming or buildings; but this subsection shall not operate to exempt from taxation mining rights held apart from the surface rights as described in clause *b* of subsection 1, nor shall there be any right to exemption unless a claim for such exemption has been made, and proof by affidavit or otherwise of the facts has been furnished to the Department of Mines not later than the 1st day of March of the year in which the tax is payable, nor unless such claim for exemption shall have been approved in writing by the mine assessor.

Acreage tax  
not to be  
payable on  
parcel of less  
than ten  
acres.

(3) No tax shall be payable under this section upon any separate tract or parcel of land, not separated for the purpose of avoiding the tax, which comprises less than ten acres.

Finality of  
assessor's  
decision.

(4) The decision of the mine assessor as to the right of exemption under this section shall be final and conclusive.  
R.S.O. 1927, c. 28, s. 14.

School trustees in unorganized districts to make list.

**15.**—(1) The trustees of every school section in unorganized territory in Ontario, shall prepare a list of all mining locations, mining claims, mining rights, and other lands within their school section liable to said acreage tax, which shall be signed and certified by their secretary or secretary-treasurer, and shall forward the same to the Department of Mines on or before the 30th day of April in each year.

Payment to school trustees of one-half of acreage tax.

(2) There shall be paid by the Treasurer of Ontario to the said trustees for school purposes each year one-half of the amount certified by the Deputy Minister of Mines to have

been actually received by Ontario for such acreage tax within said school section during the year, and it shall be the duty of the said Deputy Minister each year to certify such sum. R.S.O. 1927, c. 28, s. 15.

#### ACREAGE TAX ROLL.

**16.**—(1) From the lists furnished as in section 15 provided, from lists and information prepared by the mine assessor, and from records in the Department of Mines and in the Department of Lands and Forests, and any other source of information, the Deputy Minister of Mines, or any assessor charged with such duty, shall prepare each year a tax roll of properties and persons liable to the acreage tax imposed by section 14, but such roll shall at all times be subject to corrections or additions. Acreage tax roll.

(2) Any omissions or errors in such roll may by any person be notified to the Department of Mines, and may at any time be supplied or corrected. R.S.O. 1927, c. 28, s. 16. Correction of errors.

**17.** Notwithstanding anything in section 16, every person and property liable under section 14 for payment of acreage tax shall be and continue so liable whether entered in such roll or not, and said tax shall without any notice or demand be payable at the time and in the manner by this Act provided. R.S.O. 1927, c. 28, s. 17. Liability for tax though not on roll.

**18.** In case of any question or dispute arising as to the liability of any person or property to the tax under section 14, the Minister may in writing refer such dispute or question to the Mining Court or the Ontario Municipal Board, and thereupon all the provisions of subsections 5, 6 and 7 of section 11 shall as far as may be apply thereto. R.S.O. 1927, c. 28, s. 18. Disputes and appeals.

**19.**—(1) Where lands liable to acreage tax under section 14 are held by two or more co-owners, and the whole of the taxes have been paid by one or more of such co-owners, and the other co-owner or co-owners has or have neglected or refused to pay his or their proportion of such taxes for a period of four years, the Mining Court, upon the application of the co-owner or co-owners who have paid such taxes, may make an order requiring the delinquent co-owner or co-owners to pay, within three months from the date of such order or such further time as the Court may fix, their proper proportion of such taxes to the co-owner or co-owners who have paid them, together with interest at the rate of ten per centum per annum compounded yearly, and such costs of the Procedure to enforce claim for payment of taxes by one co-owner against another.



application as may be allowed by the judge. R.S.O. 1927, c. 28, s. 19 (1); 1931, c. 8, s. 2 (1).

Service  
of order.

(2) The order shall be served in such manner as the Court shall direct, and if at the expiration of the period fixed by the order it appears to the Court that the payment has not been made in accordance therewith, the Court may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid such taxes, and such order shall be registered in the proper registry or land titles office, and a duplicate original thereof forwarded by the said Court to the Minister.

Vesting of  
interest of  
delinquent  
owner.

"Co-owner,"  
what to  
include.

(3) In this section "co-owner" or "co-owners" shall include "co-lessee" or "co-lessees" and "incorporated company and shareholder or shareholders therein," and in the case of a company, the order shall be directed to the company. R.S.O. 1927, c. 28, s. 19 (2, 3).

#### FORFEITURE FOR NON-PAYMENT.

Forfeiture  
for non-  
payment  
of tax.

**20.**—(1) The Deputy Minister of Mines shall prepare annually a list of all mines, mining locations, mining claims, mining lands and other land and minerals in respect of which any tax by this Act imposed is two years or more in default, and, with the approval of the Minister, he shall cause a list of the mines, mining locations, mining claims, mining land or lands or mineral rights in respect of which taxes are in arrear to be advertised within a period of five weeks in at least four issues of the *Ontario Gazette* and of one newspaper, if any, published in the district or county in which the property is situate, stating that unless the amount due with costs and expenses shall have been paid on or before a date to be in said advertisement specified, which day shall be either the 30th of June or the 31st of December, not less than six months nor more than a year after the first publication of said advertisement, said property shall upon the next day following the day so fixed become forfeited to and revested in the Crown.

Advertise-  
ments.

Notice to  
persons in  
default.

(2) If the taxes due, with costs and expenses, or any part thereof, remain unpaid until within four months of the day so fixed, the Deputy Minister shall, not later than two months prior to such day, mail or cause to be mailed by registered post to the person appearing from search or inquiry at the registry or land titles office to be the owner or last known owner of each property so in default, at what appears to the Deputy Minister to be the address or last known address of such person so far as he can reasonably ascertain it, notice specifying the total amount of taxes, costs, expenses, and



penalties due or payable under this Act in respect of such property and stating that unless the same is paid on or before the day so fixed the property will be forfeited; and to the amount otherwise payable under this Act there shall in every such case be added and shall be paid as costs of such notice the sum of \$5 for each parcel of property.

(3) After the publication of such advertisement and the mailing of the notice required by subsection 2, payment of the tax due in respect of any mine, mining location, mining claim, mining land, or other land or mining rights in said advertisement mentioned or described, together with all additions, penalties, and costs and the costs of advertising, is not made on or before the day fixed in said advertisement as the last day for payment, then on the next succeeding day after the day so fixed, or at any time thereafter the Minister may by a certificate under his hand and seal of office declare that such mine, mining location, mining claim, mining land, or other land or mining rights is forfeited to and vested in the Crown in right of the Province, and that the patent or lease whereby the said mine, mining location, mining claim, mining lands or other lands or mineral rights was or were granted or leased by the Crown or other title under which they are held is revoked and cancelled, and thereupon the premises comprised therein shall vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture shall be so declared. Forfeiture.

(4) No land or mining rights forfeited or vested in the Crown under this section shall be open to location, staking, or recording as a mining claim unless and until declared so open by Order-in-Council. Forfeited  
land not  
open to  
location.

(5) The registrar of any registry division in which any lot or parcel of land or mining rights included in a certificate of forfeiture given under this Act is or are situate, or the local master of titles, as the case may be, to whom the said certificate or any exemplification or certified copy thereof is tendered for registration shall duly receive and register the same against the land affected thereby. Registration  
of certificate  
forfeiture.

(6) The certificate of the Minister shall be absolute and conclusive evidence of the forfeiture to the Crown of the land so certified to be forfeited and shall not be open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture. Certificate of  
Minister to  
be final.

(7) Any such certificate may be registered and thereupon Registration  
of certificate.

Rev. Stat.,  
c. 170.

*The Registry Act* shall cease to apply to the land affected thereby and the registrar shall note the fact in his abstract in red ink. R.S.O. 1927, c. 28, s. 20.

Machinery  
and property  
may be  
removed  
upon forfei-  
ture.

**21.** Where any lands or mining rights have been forfeited to the Crown under this Act, the owner may take from them any machinery, chattels or personal property, and any ore or mineral he may have extracted therefrom belonging to him, within six months after such forfeiture, or within such further time as may be fixed by the Mining Court, and in default of so doing, all such machinery, chattels, personal property, ore and mineral shall belong to His Majesty, for the use of Ontario. R.S.O. 1927, c. 28, s. 21.

Regrant of  
forfeited  
lands to  
owner.

**22.**—(1) The Minister may regrant any lands forfeited under this Act to the owner thereof at the time of such forfeiture or to his heirs, successors or assigns upon such terms as the Minister may deem just and the decision of the Minister upon any application for a regrant of such lands under this section shall be final and conclusive.

Order-in-  
Council  
revoking  
forfeiture.

(2) In lieu of such regrant the Lieutenant-Governor in Council may by order revoke, cancel or annul the forfeiture and such order shall be entered and registered in the proper land titles office or registry office and thereupon such lands shall be revested in the owner of the lands at the time of forfeiture, his heirs, successors or assigns subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding. R.S.O. 1927, c. 28, s. 22.

Forfeited  
lands sold  
for non-  
payment of  
school taxes.

**23.** Where lands heretofore forfeited to and vested in the Crown under this Act have been prior to such forfeiture assessed for school taxes and sold for the non-payment of such taxes, the Minister may cause an examination of such lands to be made, and where it is found upon such examination and report of an officer of the Department thereon that such lands are in use and occupation for agricultural purposes, or are suitable for the same, and are not valuable for minerals, the Minister of Lands and Forests, upon report of the Minister, may deal with such lands and dispose of them under *The Public Lands Act* to the purchaser thereof, if any, under such tax sale, or his representatives or assigns, freed and discharged from all claims for taxes imposed under this Act, but every patent issued for such lands shall be subject to any undischarged lien or encumbrance created by such tax purchaser, his representative or assigns, and the mines and minerals in such lands shall be reserved, and the patent shall be so expressed. R.S.O. 1927, c. 28, s. 23.

Rev. Stat.,  
c. 33.

Release  
from tax.

**24.** In case any doubt or dispute arises as to the liability of any person to pay a tax or any portion of a tax demanded under this Act, or where owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Minister may compromise the matter by the acceptance of such amount as he may deem proper; and in case the tax claimed has been paid under protest he may refund the same or any part thereof to the person making such payment. R.S.O. 1927, c. 28, s. 24. Compromise of tax.

**25.** Where by any agreement heretofore made between the owner, holder, tenant, lessee, occupier, or operator of a mine and the Crown it is agreed that no tax shall be paid, such mine shall be exempt from the profit tax and acreage tax imposed by this Act. R.S.O. 1927, c. 28, s. 25. Mine under agreement exempt.

## PART II.

### NATURAL GAS.

**26.** All natural gas in Ontario shall be subject to a tax of two cents for every thousand feet flowing, drawn or pumped from or produced by the well and used by the producer or delivered to the consumer or distributor of such natural gas, but natural gas used for ordinary domestic purposes by the owner or occupier of the land on which the well producing the same is situate, or so used by two or more persons from a well jointly sunk by them for their own use on land owned by one or more of them, shall not be subject to such tax, except where the same exceeds \$5 in amount. R.S.O. 1927, c. 28, s. 26; 1933, c. 34, s. 2. Natural gas subject to tax. Exception. Tax on over-flow of natural gas.

**27.** The owner, lessee, tenant, operator, or occupier of every well shall keep a book continuously at some place in Ontario to be fixed by the mine assessor, in which shall be truly and faithfully recorded the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells operated by him. R.S.O. 1927, c. 28, s. 27. Books to be kept.

**28.—(1)** The mine assessor shall have the right, at any and all times, and from time to time, as often as he shall think fit, to inspect all apparatus and machinery used in connection with the well, for the purpose of estimating or ascertaining the quantity of gas flowing, drawn or pumped from, or produced by any well. Inspection of apparatus.

**(2)** He shall also have the right at all times to examine said books and to call for and examine all books, records, and memoranda, whether the same are required by law to be kept And of books.

or not, kept by the owner, lessee, tenant, operator or occupier or any one or more of them, for the purpose of ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well; and the owner, lessee, tenant, operator, or occupier shall forthwith upon demand produce to the mine assessor all such books, records, and memoranda for the purposes aforesaid. R.S.O. 1927, c. 28, s. 28.

When meter  
to be affixed.

**29.** If the mine assessor has reason to believe that the amount of gas produced by the well is not correctly shown by the book required to be kept, or by other books, records or memoranda as aforesaid, he may direct that a meter shall be affixed by the owner, lessee, tenant, occupier or operator of every well to every main pipe or duct through which all the gas flowing, drawn or pumped from the well or wells shall pass, so as to indicate the total gross quantity of gas flowing, drawn or pumped from, or produced by such well or wells. R.S.O. 1927, c. 28, s. 29.

Defective  
meters to be  
remedied.

**30.**—(1) The meter may be inspected and tested, at any time or times, by or at the request of the mine assessor, as he shall think fit, for the purpose of ascertaining whether it correctly records the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, and in case he shall find that the same is not truly recording the quantity of gas flowing, drawn or pumped from, or produced by such well or wells, he may by a writing under his hand order that the same shall be forthwith put in order so as to furnish a true record, or he may order that a new meter shall forthwith be affixed to the pipe or duct; and the owner, lessee, tenant, operator, or occupier shall forthwith cause the order to be obeyed.

Meter not  
correctly  
placed.

(2) If the mine assessor finds that the meter is so placed that the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells does not pass through the meter, he may by a writing under his hand order that the same shall be so placed that the whole of the gas proceeding from the well or wells shall pass through the same, and the owner, lessee, tenant, occupier or operator shall forthwith cause the order to be obeyed. R.S.O. 1927, c. 28, s. 30.

Notice of  
operating  
wells.

**31.** Every owner, tenant, lessee, operator or occupier of a gas well or gas wells shall forthwith after the passing of this Act furnish to the Department of Mines a statement showing the wells operated by them or him, their location, the names and addresses of the owner, tenant, lessee, operator or occupier and the name and address of some person in Ontario to whom notices to be given under this Act may be



sent and any order made by the mine assessor or any notice required to be given may be delivered to the owner, tenant, lessee, operator or occupier or to the person named for receiving notices, and if no such person is named, then to any manager, clerk, foreman or other person in the employment of the owner, tenant, lessee, operator or occupier at the well or in charge of the same, or to any manager or clerk at the office of the owner, tenant, lessee, operator or occupier. R.S.O. 1927, c. 28, s. 31.

**32.** Every owner, lessee, tenant, occupier and operator of any well or wells to which this Act applies, or the manager or superintendent thereof, shall furnish to the Minister on the 1st day of July in each year, a true statement of the quantity of gas subject to tax under the provisions of section 26 which flowed, was drawn or pumped from and produced by such well or wells during the twelve months ending on the 31st day of December next preceding such date. 1933, c. 34, s. 3.

**33.**—(1) It shall be the duty of the mine assessor to examine the same, and ascertain whether or not the same is a true and correct statement of the quantity of gas which proceeded from the well or wells for such period, and if he finds the same to be correct, the quantity so stated shall be the quantity upon which the tax shall be computed for such period, and the mine assessor shall thereupon notify the owner, lessee, tenant, operator or occupier of the same.

(2) If the mine assessor shall be of opinion that the same is incorrect, he shall notify the person furnishing the statement thereof, and in what particular the same is deemed to be incorrect, and, if the owner, lessee, tenant, occupier or operator assents thereto, the statement may be amended and resworn to, and when so amended the quantity so stated shall be the quantity upon which the tax shall be computed for such period.

(3) If the owner, lessee, tenant, operator or occupier disputes the notice so given, the dispute shall be heard by the Mining Court or the Ontario Municipal Board as the Minister shall direct, and such decision shall be final and conclusive, and the quantity so found shall be entered on the statement as the true quantity, and the tax for such period shall be computed thereon. R.S.O. 1927, c. 28, s. 33.

**34.**—(1) At the times specified in section 3, the owner, lessee, tenant, operator or occupier shall pay to the Minister

Service of  
notice, etc.

Statement  
to be  
furnished  
by owner.

Assessor to  
examine  
statement.

Incorrect  
statement,  
amendment.

Disputed  
statement.

Date for  
payment of  
tax.



the full tax for the quantity of gas shown in the statement as having proceeded from the well during the preceding year.

Settling  
disputes as  
to amount.

(2) If any dispute is then pending as to the true quantity, the tax shall nevertheless be paid on the amount shown in such statement, and as soon as such dispute has been determined by increasing the quantity, the remainder of the tax shall be forthwith paid, and if a less quantity is found to have proceeded from the well, the excess of the tax received shall be forthwith remitted to the person paying the tax. R.S.O. 1927, c. 28, s. 34.

Exemption  
of municipal  
corporation.

**35.** A municipal corporation shall not be required to pay any tax under Part II upon any gas actually used in Canada. R.S.O. 1927, c. 28, s. 35.

### PART III.

#### PERCENTAGE, REMEDIES AND PENALTIES.

Ten per cent.  
to be added  
for default.

**36.**—(1) In case any tax by this Act imposed is not paid at the time in this Act provided, ten per centum shall forthwith be added thereto, and ten per centum shall be added at the expiration of each year thereafter that the tax remains unpaid, and the said increased amounts shall for all purposes be and become the tax due and payable under this Act.

Record of  
arrears to be  
kept.

(2) It shall be the duty of the Deputy Minister of Mines or such other person as may be directed by the Minister, to keep a careful record of all arrears of taxes under this Act, with the increased amounts from time to time entered thereon. R.S.O. 1927, c. 28, s. 36.

Special lien  
and priority  
of the tax.

**37.** All taxes, double taxes, percentages, penalties and costs respectively payable under this Act shall be a special lien on the mine, mining location, mining claim, land or mining rights and upon all ore, minerals, or mineral-bearing substances taken therefrom, and upon the gas wells or wells and the leases of and rights respecting the same and upon all machinery upon or connected with the mine or gas well or wells in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or shall accrue after the attaching of such lien, and its priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration and the same may be realized by action for sale of any or all property, leases and rights subject to such lien. R.S.O. 1927, c. 28, s. 37.

## REMEDIES.

**38.** If any tax imposed by this Act is not paid when due, the same, together with the added percentage, may be recovered from the owner, tenant, lessee, occupier or operator of the mine or well by an action at the suit of the Minister in any court of competent jurisdiction, together with costs of action. R.S.O. 1927, c. 28, s. 38. Action to recover tax.

**39.**—(1) In addition to any other remedies for the recovery of any tax by this Act imposed, an injunction or order in the nature of injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as may seem necessary or expedient for securing payment of the tax, may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems endangered, be obtained in the Supreme Court or county or district court at the instance and in the name of the Minister to prevent the removal, transportation or transmission of any ore, mineral, or mineral-bearing substance, or natural gas, or to prevent or restrict mining operations or the production or waste of natural gas, or to provide for such operations or production upon such terms and conditions as may seem proper. Injunction or receiver—collection of taxes.

(2) In any case where natural gas is wasting in such quantity that the mine assessor deems that payment of any tax due or to become due thereon is endangered, he may give notice in writing to the owner or person in charge of the well or opening from which the gas is flowing, or may post up notice at or near such well or opening requiring stoppage of such waste, and if the waste is not effectively prevented within six days thereafter it shall be lawful for the mine assessor with the consent of the Minister forthwith to close up or direct and procure the closing up of such well or opening in such way as he may deem suitable and proper, and the mine assessor shall have all rights and powers necessary therefor, and the expenses of such closing up as certified by the mine assessor shall, subject to appeal as provided by section 11, be added to and be deemed part of the tax under this Act. R.S.O. 1927, c. 28, s. 39. Closing up natural gas well where tax endangered by waste.

**40.** Any action which may be brought under this Act may be brought by the Minister as plaintiff, and it shall not be necessary to name the Minister, and the action shall not abate by reason of a change in the person of such Minister or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed. R.S.O. 1927, c. 28, s. 40. Action by Minister does not abate.

**41.** In case of default of payment of any taxes by this Act imposed, the same, together with all additions of percentage, Distress.

double tax, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor, under warrant signed by the Minister or Deputy Minister of Mines, directed to the sheriff of any county or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant and all costs by sale of such goods or so much thereof as may be necessary to satisfy the amount directed to be levied by such warrant. R.S.O. 1927, c. 28, s. 41.

#### PENALTIES.

Penalty for  
false  
information.

**42.** Any person knowingly making or signing any false statement or furnishing any false or incorrect information to the Department of Mines or any mine assessor under section 7, or giving any other false or incorrect information to any officer or person in respect to any other matter or thing required under this Act, or keeping or causing to be kept any false or incorrect book or accounts regarding anything required under this Act, with intent to deceive shall, in addition to any other liability, incur a penalty of \$200 for every such offence, which penalty may be recovered upon summary conviction before any justice of the peace having jurisdiction within the municipality in which such false statement or false information is made or furnished, or before any justice of the peace having jurisdiction within the municipality in which such false book or account is kept. R.S.O. 1927, c. 28, s. 42.

Penalty for  
not furnish-  
ing  
information.

**43.** Every person who is required under the provisions of section 7 to make or furnish any statement or information, and every mine in respect of which such statement or information is required to be made or furnished shall, in case of neglect to conform with the provisions of the said section, incur a penalty of \$20 per day for each day during which the default is made, which penalty or sum shall be added to and become part of the tax imposed by this Act, and such person and such mine shall also be liable to pay a tax of double the amount for which it would have been liable under section 4, and any such penalty or double tax may be recovered from any person liable therefor in an action brought in the name of the Minister, to be tried by a judge without a jury.

How  
recoverable.

R.S.O. 1927, c. 28, s. 43.

Penalty for  
disclosing  
information,  
etc.

**44.** Any person violating the provisions of section 6 and any person violating the provisions of section 10 by communicating or disclosing any information contrary to the pro-

visions thereof shall incur a penalty of \$50 for every such offence. R.S.O. 1927, c. 28, s. 44.

**45.** If any order made under section 30 is not complied with within a reasonable time after it shall have been delivered, the owner, lessee, tenant, operator or occupier shall be liable to a penalty of \$10 for every day from the delivery of the order until the same shall have been complied with, to be recovered with costs by action at the suit of the Minister in any court of competent jurisdiction as a debt due, and the owner, lessee, tenant, operator or occupier shall also be liable for double the tax computed upon the amount of gas estimated by the mine assessor to be passing through the pipe or duct during such period. R.S.O. 1927, c. 28, s. 45.

Penalty for non-compliance with orders.

#### BONUSES.

**46.—(1)** If at the time when any tax upon the profits arising out of the mining of iron ore or any tax upon natural gas shall become payable to the person liable to pay the same shall upon oath show to the satisfaction of the Minister that such iron ore mined in Ontario has in the preceding year been smelted in the Dominion of Canada or delivered at a blast furnace in the said Dominion for the *bona fide* purpose of being smelted thereat, or shall in like manner show the quantity of natural gas used during the preceding year within the Dominion of Canada, and if such person shall not during the preceding year have infringed in any way the provisions of this Act or any of them, and is not in default or arrear in any payment, the Minister on being satisfied of the facts deposed to, may remit to the person liable to pay the same the whole of the tax payable in respect to such iron ore as has been smelted in Canada or delivered at a blast furnace therein for the *bona fide* purpose of being smelted, and seventy-five per centum of the tax payable on such quantity of natural gas as has been used in the Dominion of Canada in the preceding year. R.S.O. 1927, c. 28, s. 46 (1); 1932, c. 7, s. 3; 1933, c. 34, s. 4.

Remission of tax on iron smelted and gas used in Canada.

(2) For the purpose of ascertaining whether the facts deposed to are true and correct, the mine assessor may make any examination or inquiry necessary to ascertain the correctness of the statement, and the owner, lessee, tenant, occupier or operator shall produce and show to the assessor all books, documents, records and memoranda kept by him or under his control, and in case of refusal, neglect or default to furnish any information asked for by the mine assessor, or to produce and show any books, documents, records or

Examinations to determine truth of statements.

memoranda kept by him or in his power or under his control, he shall not be entitled to any remission. R.S.O. 1927, c. 28, s. 46.

## REGULATIONS.

Regulations  
for carrying  
out Act.

**47.** The Lieutenant-Governor in Council may make regulations for carrying out the purposes of this Act, and such regulations shall be published in the *Ontario Gazette* and shall be laid before the Assembly forthwith if the Assembly is then in session, and if it is not then in session, within fifteen days after the opening of the next session. R.S.O. 1927, c. 28, s. 47.

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## CHAPTER 29.

## The Corporations Tax Act.

## INTERPRETATION.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Bank" shall mean a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank, which transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere; "Bank."
- (b) "Company" shall include corporation and association however or wherever incorporated and where any such corporation or association is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver, or other officer, shall include such agent, assignee, trustee, liquidator, receiver, or other officer, and shall also include an individual, partnership, syndicate or trust where the business is carried on in Ontario by such individual, partnership, syndicate or trust, whether the head office or chief place of business of such individual, partnership, syndicate or trust is in Ontario or elsewhere, but the word individual in this clause shall not apply to a private banker or to an individual merely because of his loaning money; "Company,"
- (c) "Extra-provincial company" shall mean a company which has its head office elsewhere than in Ontario; "Extra-provincial company."
- (d) "Head office" shall mean the head office in Ontario of a company or the place therein designated by the company as the head office, and where no such place is designated, that place of business of the company that may be designated as the head office by the Lieutenant-Governor in Council on the report of the Treasurer; R.S.O. 1927, c. 29, s. 1, cls. (a-d). "Head office."
- (e) "Incorporated company" shall include corporation and association however or wherever incorporated and where any such corporation or association is placed in the hands of or under the control of an "Incorporated company."

agent, assignee, trustee, liquidator, receiver or other officials shall include such agent, assignee, trustee, liquidator, receiver or other officials; 1935, c. 12, s. 2.

"Insurance company,"

- (f) "Insurance company" shall include life, fire, ocean, or inland marine, inland transit, accident, plate glass, automobile, steam boiler and burglary insurance companies and guarantee, surety or casualty companies which transact business or undertake risks on lives or property in Ontario, wherever such companies may be incorporated, whether the head office is situated in Ontario or elsewhere, but shall not include purely mutual fire insurance companies or mutual live stock and weather insurance companies licensed or registered under *The Insurance Act*, or friendly societies, lawfully transacting insurance business in Ontario under the said Act; R.S.O. 1927, c. 29, s. 1, cl. (e).

Rev. Stat.,  
c. 256.

"Liquor export company."

- (g) "Liquor export company" shall mean and include every individual, firm or corporation storing for export liquor as defined by *The Liquor Control Act* in any place, or on any premises not being premises owned or occupied by the manufacturer of such liquor; R.S.O. 1927, c. 29, s. 1, cl. (k).

Rev. Stat.,  
c. 294.

"Loan company,"

- (h) "Loan company" shall mean a loan corporation and a loaning land corporation as defined by *The Loan and Trust Corporations Act* which transacts business within Ontario;

Rev. Stat.,  
c. 257.

"Railway."

- (i) "Railway" shall include a railway and part of a railway in Ontario operated in whole or in part by steam, electricity or other motive power, constructed and operated on highways or on land owned by the company owning or operating it, or partly on highways and partly on such land, but not a street railway as defined by this Act;

"Street railway."

- (j) "Street railway" shall include a railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or by-law of a city, and shall include only those portions of the railway which are within the city;

"Treasurer."

- (k) "Treasurer" shall mean Treasurer of Ontario;

"Trust company."

- (l) "Trust company" shall mean a corporation authorized under any law in force in Ontario,—

- (i) to act as executor, administrator, trustee, liquidator, receiver, assignee, guardian or committee; or
- (ii) to receive on deposit deeds, wills or other valuable papers or securities for money or jewelry, plate, or other personal property, and to guarantee the safe-keeping of the same; or
- (iii) to act as attorney or agent for the transaction of any business or class of business, or the collection of money or the management of property of any kind; or
- (iv) to act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any company or municipal or school corporation, and to receive, invest and manage any sinking fund therefor; or
- (v) to guarantee any investment made by it as agent or otherwise. R.S.O. 1927, c. 29, s. 1, cls. (f-j).

**2.** This Act shall not apply to railways, street railways, gas, electric or telephone works owned and operated by a municipal corporation, whether operated directly by the corporation or by a board or commission. R.S.O. 1927, c. 29, s. 2.

Act not to apply to railway operated by municipality.

## TAXATION OF COMPANIES.

**3.—(1)** Every company or incorporated company, not including a municipal corporation, having its head office or other office in Ontario, or which holds assets in Ontario, or which transacts business in Ontario, whether under its own name or through an agent or otherwise shall annually pay to His Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner hereinafter provided. 1935, c. 12, s. 3 (1).

Taxes payable by companies.

### BANKS.

(2) Every bank shall pay,—

Banks.

(a) a tax of one-fifth of one per centum on the paid-up capital thereof and one-tenth of one per centum on the reserve fund and undivided profits thereof; R.S.O. 1927, c. 29, s. 3 (2), cl. (a).

On paid-up capital.

(b) an additional tax of \$3,000 for principal office in

On offices.

Ontario and \$200 for each additional office, branch or agency in Ontario; 1932, c. 8, s. 2 (1).

Reduction in certain cases.

- (c) where the head office or principal place of business of a bank is out of Ontario and it has not more than five agencies or branch offices within Ontario, the Lieutenant-Governor in Council, having regard to the amount of business transacted thereby in the Province, may reduce the amount of the tax thereof, which shall in no case, however, be less than one-tenth of one per centum upon one-half of the paid-up capital. R.S.O. 1927, c. 29, s. 3 (2), cl. (c).

#### INSURANCE COMPANIES.

Life insurance companies.

- (3) (a) (i) Every life insurance company shall pay a tax of one and three-quarters per centum on all gross premiums received by the company or its agent or agents in respect of the business transacted in Ontario less cash value of dividends to policyholders.

Fire insurance companies.

- (ii) Every fire insurance company shall pay a tax of one and two-thirds per centum calculated on the gross premiums received by the company or its agent or agents in respect of the business transacted in Ontario.

Other insurance companies.

- (iii) Every other insurance company shall pay a tax of two per centum calculated on the gross premiums received by the company or its agent or agents in respect of the business transacted in Ontario. 1932, c. 8, s. 2 (2).

Mutual fire insurance companies.

- (b) In the case of mutual fire insurance companies which receive premiums in cash the tax shall be calculated on the gross premiums received in cash in respect of the insurance transacted on the cash plan in Ontario;

Extra-provincial companies from countries discriminating against Ontario.

- (c) Where any country or any state of any country imposes a tax or license fee which has the effect of discriminating against insurance companies or against any classes of insurance companies organized under the laws of Canada or of Ontario, and having their principal offices in Ontario, and of imposing a tax or license fee higher or greater than the tax or license fee which home companies in such state or country are required to pay, the Lieutenant-Governor in Council may direct that any insurance company which is organized in or under the laws of any such country or state, or has its head office or principal

office therein, and which transacts insurance business in Ontario, shall pay in addition to the tax imposed by clauses *a* and *b*, a tax calculated on the gross premiums received by the company or in respect of the business transacted in Ontario during the preceding year, but so that such increase shall not exceed the equivalent of the extra tax or license fee or both imposed in such country or state;

- (d) In estimating the amount of the tax payable under this Act by an insurance company every premium which,—

Premiums in respect of business transacted in Ontario.

- (i) is by the terms of the policy or renewal thereof or otherwise payable in Ontario; or
- (ii) is paid in Ontario; or
- (iii) is payable upon or in respect of a risk undertaken in Ontario; or
- (iv) is payable in respect of insurance of a person or property resident or situate in Ontario at the time of payment, whether such premium is earned wholly or partly in Ontario or elsewhere, and whether the business is transacted in respect of such policy or the payment of such premium is made wholly or partly within Ontario or elsewhere,

shall be deemed to be a premium in respect of business transacted in Ontario;

- (e) The chief agent in Ontario under *The Insurance Act* of an extra-provincial insurance company and every other insurance company shall keep a separate book or set of books in which shall be entered the premiums mentioned in clause *d*, and all other income of the company in respect of business transacted in Ontario, and in default the company shall incur a penalty equal in the case of a life insurance company, to one and one-quarter per centum, and in the case of every other insurance company to one per centum, on the total gross premiums and other gross income of the company. R.S.O. 1927, c. 29, s. 3 (3), cls. (b-e).

Record of income.  
Rev. Stat.,  
c. 256.

#### LOAN COMPANIES.

- (4) Every loan company shall pay a tax as follows,—

Tax on loan companies.

- (a) A company with fixed or permanent paid-up capital, one-twentieth of one per centum on the paid-up capital thereof, and one-twentieth of one per centum

Permanent capital.



of all moneys invested in Ontario by such company, excluding the company's office premises and cash in bank, but in no case less than \$100; R.S.O. 1927, c. 29, s. 3 (4), cl. (a); 1932, c. 8, s. 2 (3).

Permanent  
and ter-  
minating  
capital.

- (b) A company having terminating or withdrawable capital, as well as fixed or permanent capital, one twenty-fifth of one per centum on such paid-up terminating or withdrawable capital after the first \$100,000, in addition to the amount payable under clause *a*;

Terminating  
capital only.

- (c) A company having terminating or withdrawable capital only, one twenty-fifth of one per centum of such paid-up terminating or withdrawable capital after the first \$100,000 and one twenty-fifth of one per centum of all moneys in excess of \$100,000 invested in Ontario by such company, excluding the company's office premises and cash in bank;

Receiving  
deposits.

- (d) A company receiving deposits or doing the business of a savings bank, in addition to the amount payable under clauses *a*, *b* and *c*, \$25 on each \$100,000 or part thereof, of deposits up to \$1,000,000; \$15 on each \$100,000, or part thereof, of deposits over \$1,000,000 and not over \$2,000,000; and \$5 on each \$100,000, or part thereof, of deposits over \$2,000,000. R.S.O. 1927, c. 29, s. 3 (4), cls. (b-d).

#### TRUST COMPANIES.

Trust  
companies.

- (5) Every trust company shall pay a tax of one-quarter of one per centum on the paid-up capital thereof up to \$100,000 and \$100 on every additional \$100,000 or fraction thereof of paid-up capital, and in addition thereto a tax of one per centum calculated on the gross annual income of the company on business transacted within Ontario. R.S.O. 1927, c. 29, s. 3 (5).

Capital and  
gross income.

#### RAILWAYS.

Railways.

- (6) (a) Every company owning, operating or using a railway shall pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, owned, operated or used in any organized municipality, and of \$40 per mile for one track, and, where the line consists of two or more tracks of \$20 per mile for each additional track, in territory without municipal organization, provided that a company owning, operating or using a railway which, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which

Proviso.

it forms one system does not exceed one hundred and fifty miles in length from terminus to terminus shall, in lieu of such tax, pay a tax of \$15 per mile for one track, and where the line consists of two or more tracks, of \$5 per mile for each additional track, and where the railway or system does not exceed thirty miles in length from terminus to terminus a tax of \$10 per mile for one track and \$5 per mile for each additional track;

- (b) Both the company owning the railway and the company operating or using it shall be jointly and severally liable for the payment of the amount of the tax to the Treasurer, but the total amount payable in respect of any railway shall not exceed the amounts above respectively mentioned, notwithstanding that the railway is owned, operated or used by more than one company;

Company owning and company operating liable.

- (c) The measurement of track for the purposes of this subsection shall not include switches, spurs or sidings. R.S.O. 1927, c. 29, s. 3 (6).

Exception.

- (7) (a) In addition to the tax imposed by subsection 6, every company owning, operating or using a railway which, either by itself or in conjunction with any other railway leased by it or with which it is amalgamated or together with which it forms one system, exceeds one hundred and fifty miles in length from terminus to terminus, shall pay a tax of \$25 per mile for one track, and where the line consists of two or more tracks of \$20 per mile for each additional track owned, operated or used by the company; 1928, c. 21, s. 1 (1).

Tax on railway mileage

- (b) Clauses *b* and *c* of subsection 6 shall apply to the tax imposed by this subsection as well as to the tax imposed by subsection 6;

Clauses *b* and *c* of subs. 6 to apply.

- (c) Section 25 shall not apply to the tax imposed by this subsection. R.S.O. 1927, c. 29, s. 3 (7), cls. (a, b).

Sec. 25 not to apply.

#### TELEGRAPH COMPANIES.

(8) Every company owning, operating or using a line or a part of a line of telegraph within Ontario for gain shall pay a tax of one per centum upon the total amount of money invested by the company on such line or part thereof or the works and plant connected therewith, provided that a company owning and a company operating or using any such line or part thereof shall be jointly and severally liable for the payment of the said tax, but the total amount payable in respect of any such line or part of line shall not exceed the

Telegraph companies.

amount above mentioned notwithstanding that the line or part thereof is owned, operated or used by more than one company. R.S.O. 1927, c. 29, s. 3 (10); 1932, c. 8, s. 2 (4).

Telephone  
lines.

(9) Every company owning, operating, or using a telephone line or part thereof in Ontario for gain and having a paid-up capital of \$100,000 or over shall pay a tax of three-eighths of one per centum upon the paid-up capital thereof, 1928, c. 21, s. 1 (2); 1932, c. 8, s. 2 (5).

#### GAS AND ELECTRIC COMPANIES.

Gas and  
electric  
companies.

(10) (a) Every gas company, every company developing, generating, transmitting or distributing electrical power or energy for light, heat or power works, or owning any plant or machinery for developing generating transmitting or distributing electrical power or energy, or for supplying or dealing in gas, or electricity for light, heat or power purposes and which is used for any of such purposes whether by such company or by any other company, shall pay a tax of one-tenth of one per centum of the paid-up capital of its company and an additional tax of one-half of one per centum calculated on the net revenue of the company earned within Ontario, but this shall not apply to any gas or electrical works owned and operated by a municipal corporation;

Net revenue.

(b) In estimating the net revenue of a company within the meaning of this subsection no deduction shall be made for dividends or interest payable upon the shares or securities issued by the company, but allowance shall be made for any annual fixed sum or share of profits payable to a municipal corporation for the franchise of the company under any agreement or statute;

Taxation of  
gas and  
electric  
companies.

(c) This subsection shall not apply so as to render liable to the tax hereinbefore imposed any company not having at least \$20,000 invested in any such plant or works;

Paid-up  
capital.

(d) In estimating the paid-up capital of a company within the meaning of this subsection all sums of money raised by the company by the issue of debentures, and all sums loaned or advanced to the company by any other company shall be included. R.S.O. 1927, c. 29, s. 3 (12).

Gas  
company  
defined.

(e) In this subsection a gas company shall include a natural gas company. 1932, c. 8, s. 2 (6).

#### EXPRESS COMPANIES.

Express  
companies.

(11) Every company, including a railway company carrying on the business of an express company over a railway in

Ontario, shall pay a tax of \$800 for each one hundred miles or fraction thereof but in no case more than \$10,000. R.S.O. 1927, c. 29, s. 3 (13); 1932, c. 8, s. 2 (7).

#### CAR COMPANIES.

(12) Every company other than a railway company trans-<sup>Tax on car  
companies.</sup>acting business in Ontario by operating, leasing or hiring sleeping, parlour or dining cars run upon or used by any railway within Ontario shall pay a tax of one per centum upon the money invested in such cars so in use in Ontario. 1931, c. 9, s. 2 (1).

#### RACE TRACKS.

(13) (a) Every incorporated company, association or club<sup>Tax on race  
tracks and  
race  
meetings.</sup> owning or operating or using a race track and holding a race meeting shall pay in advance before such race meeting for each day of such meeting, a tax of \$5,000, but the Lieutenant-Governor in Council may at any time increase such tax to a sum not exceeding \$10,000 per day, provided that the Treasurer may rebate the tax to any company, association or club by an amount equal to two per centum of the sum or sums given yearly by such company, association or club in purses or stakes to the owners of horses bred in Canada and to horse owners resident in Canada;

(b) In this subsection the words "race meeting" shall mean a series of races consisting of running or mixed trotting, pacing or running races for horses. R.S.O. 1927, c. 29, s. 3 (15); 1932, c. 8, s. 2 (8).

(14) (a) Every incorporated company, association or club<sup>Trotting  
tracks.</sup> owning, operating or using a track for trotting purposes only and holding a race meeting shall pay in advance before such meeting for each day of the meeting a tax of \$10;

(b) In this subsection the words "race meeting" shall mean a series of trotting races for horses.

(15) Every holder of a winning ticket issued under the<sup>Tax on bets  
and stakes  
on racing.</sup> pari-mutuel system upon a race run at any race meeting conducted by an incorporated company, association or club shall pay a tax of five per centum upon the amount which would be payable to him if no percentage were deducted or retained by the company, association or club in respect of such race, and the said tax shall be collected by the incorporated company, association or club as the agent of the Treasurer by deducting from the total amount bet or wagered, upon such race a sum equal to five per centum of the amount so bet or wagered, and the company, association or club shall



Returns at  
close of  
meeting.

pay such sum over to the Treasurer at the close of each day's racing.

(16) (a) Every incorporated company, association or club to which subsection 13, 14 or 15 applies, shall within two weeks after the close of each such race meeting furnish to the Treasurer a detailed statement, verified by the affidavit of the president or secretary-treasurer of such incorporated company, association or club,—

- (i) of the moneys received and of the moneys paid out at or in connection with such race meeting;
- (ii) of the total amount wagered on the track or tracks of the company, association or club at such race meeting in respect of which such incorporated company, association or club derived any benefit;
- (iii) the percentage or other portion thereof taken by such incorporated company, association or club;

Office.

(b) (i) Every incorporated company, association or club to which subsection 13, 14 or 15 applies, shall maintain an office at or near its race track and within the Province of Ontario at which at all times shall be kept the minute book, books of account, and vouchers of such incorporated company, association or club and such minute book, books of account and vouchers shall at all times be open to the inspection of the Treasurer or his duly accredited representative;

Access to  
race course.

(ii) Such officers or clerks of the Treasury Department as may be appointed by the Treasurer for the purpose of ascertaining the amount wagered in connection with the tax imposed by subsection 15 shall have access free of all charge at all times to all parts of any race course including the pari-mutuel plant connected therewith during the progress of a race meeting;

Penalties.

(c) Every company, association or club opening or continuing a race meeting on any day in respect of which the tax hereby imposed has not been paid or neglecting or refusing to deduct and pay over the tax mentioned in subsection 15 or neglecting to furnish the statement required by clause *a* or to comply with the requirements of clause *b* shall incur a penalty of \$1,000 for every day during which the default continues and every director, manager or secretary of the com-



pany, association or club who wilfully authorizes or permits such default shall incur a like penalty but such penalty shall be recoverable only by action at the suit of the Crown or of a private person suing on his own behalf with the written consent of the Attorney-General;

- (d) Where default has been made by any such company, association or club in the payment of the tax imposed by subsection 13 or 14 or in deducting and paying over the tax mentioned in subsection 15 or in making any return required by this subsection or under any other provision of this Act, or in complying with the provisions of clause *b*, or such company, association or club is violating any statute of Canada or of Ontario, the Provincial Police, acting under the instructions of the Treasurer, may stop all racing upon the track of such company, association or club, or the holding of any further race meeting by the company, association or club.

Default.

Penalty.

(17) Where under any agreement or arrangement heretofore or hereafter entered into an incorporated company, association or club conducting a race meeting upon a race course of such company, association or club has leased, assigned or otherwise disposed of or suffers or permits the enjoyment of the betting privileges or the operation of pari-mutuel machines upon or in connection with the race course of such company, association or club to or by any person or company, such person or company shall deduct and pay over to the Treasurer the tax imposed by this Act and all the provisions of this Act shall apply to such person or company as well as to the incorporated company, association or club owning or operating or using the race course.

Collection of tax through issuing tickets where betting rights assigned, etc.

(18) In the event of the neglect, refusal or failure of any such person or company to deduct and pay over the said tax and to comply with the provisions of this Act the incorporated company, association or club conducting the race meeting in respect of which such default occurs as well as such person or company shall incur the penalties provided by this Act, and the Provincial Police acting under the instructions of the Treasurer may stop all racing upon the track of such incorporated company, association or club or the holding of any further race meeting by such incorporated company, association or club. R.S.O. 1927, c. 29, s. 3 (16-20).

Penalties.

NOTE:—By the Act, 1922, chapter 14, section 5, it was enacted as follows:

5.—(1) Every person who is the holder of a winning ticket issued under the pari-mutuel system or who is to receive as winner, money bet or wagered upon a race run at any race meeting con-

Tax on holders of winning tickets.

*ducted by any incorporated company, association or club shall pay to His Majesty for the use of Ontario a tax of five cents upon each dollar or fraction of a dollar payable to him in respect of such ticket or bet or wager to be collected as herein provided.*

Regulations  
for collection  
of tax by  
stamps, etc.

(2) *The Lieutenant-Governor in Council may make regulations,—*

- (a) *For the collection of the tax imposed by subsection 1 by means of stamps to be affixed to every winning ticket, or by other means;*
- (b) *For the sale and distribution of such stamps by the incorporated company, association or club conducting the race meeting, or by any person being the custodian or depository of the funds out of which bets or wagers placed at such race meeting are to be paid, or by any other agent of the Treasurer of Ontario or by any other person;*
- (c) *For the cancellation of such stamps;*
- (d) *Generally for the better carrying into effect of the provisions of this Act.*

Penalty on  
holder in  
default.

(3) *Every person who being liable for the payment of said tax neglects or refuses to pay the same, or to affix any stamps required by the regulations made under subsection 2, shall incur a penalty not exceeding \$200.*

Penalty for  
failure to  
collect.

(4) *Every incorporated company, association or club and every person being the custodian or depository of moneys paid or wagered as aforesaid, and every employee of such incorporated company, association or club or of any such person who pays over any moneys to the holder of a winning ticket as aforesaid to which a stamp or stamps have not been affixed to the proper amount payable by the holder of such winning ticket, or in respect of which the tax imposed by subsection 1 of this section has not been paid, or who contravenes any regulation made under subsection 2 shall be guilty of an offence and shall incur a penalty not exceeding \$1,000 for every such offence, and where it appears to the Treasurer that the tax imposed by subsection 1 is not being collected in the manner hereinbefore provided, the Treasurer may stop all racing upon the track of such incorporated company, association or club or the holding of any race meeting by such incorporated company, association or club.*

Commence-  
ment of  
section.

(5) *This section shall come into force on a day to be named by the Lieutenant-Governor in Council by his Proclamation and upon such Proclamation being issued subsections 2, 3 and 4 of section 3 of The Corporations Tax Act, 1922, and section 4 of The Declaratory Act, 1922, shall be deemed to be repealed, and sections 2, 3 and 4 of this Act shall cease to have effect.*

LIQUOR EXPORT COMPANIES.

(19) Every liquor export company shall pay a tax of \$15,000 per annum. R.S.O. 1927, c. 29, s. 3 (21). Liquor  
export  
company.

INCORPORATED COMPANIES.

(20) (a) Save as in this subsection otherwise provided every incorporated company having its head or other office in Ontario or which holds assets in Ontario, or which transacts business in Ontario, whether under its own name or through an agent or otherwise shall pay a tax of one-tenth of one per centum upon the paid-up capital thereof; 1935, c. 12, s. 3 (4), *part*. Incorporated  
companies,—  
tax on  
capital.

(b) Provided that, where all or part of the business of a company is investment and reinvestment in shares, bonds, or obligations of other companies or any government, municipal or school corporation, a deduction shall be allowed from the paid-up capital in the same proportion as such investments bear to the total assets of the company; 1932, c. 8, s. 2 (9) *part*. Capital  
deduction  
allowable.

(c) Provided further that the tax imposed by this subsection shall not apply,— Exemptions.

- (i) to the paid-up capital of any incorporated company engaged in mining remaining after the deduction for investments provided by clause *b*, *bona fide* held or used in the survey for exploration and development of gold, silver, copper, nickel or other precious or semi-precious metals;
- (ii) to the paid-up capital of any incorporated company engaged in mining remaining after the deduction for investments provided by clause *b*, whose profits are insufficient to be assessed for a tax under *The Mining Tax Act*; Rev. Stat.,  
c. 28.
- (iii) to that portion of the paid-up capital of any incorporated company engaged in mining, remaining after the deduction for investments provided by clause *b*, which is represented by the mine as defined by *The Mining Tax Act*, and the plant and works necessary to and forming part of such mine, the profits of which are assessed for a tax under *The Mining Tax Act*. 1937, c. 2, s. 2 (1). Rev. Stat.,  
c. 28.
- (iv) to any company maintaining a head office or executive office or both in Ontario but whose business and assets are carried on and situated entirely outside of Ontario;

- (v) to any company which maintains a head office or executive office or both in Ontario but whose assets consist wholly of shares or obligations of other companies or corporations;
- (vi) to any company whose affairs are in the hands of a liquidator, receiver or trustee and the assets of which, in the opinion of the Treasurer, are insufficient to meet its liabilities;
- (vii) to any company which, in the opinion of the Treasurer, has not commenced to do business or, which, in the opinion of the Treasurer, has ceased to do business;
- (viii) to any association incorporated without share capital;
- (ix) to any company which, in the opinion of the Treasurer, was incorporated for the purpose of drainage, agriculture or colonization in Ontario;
- (x) to any company which, in the opinion of the Treasurer, was incorporated for religious, charitable, philanthropic, social or educational purposes and which is not, in the opinion of the Treasurer, carried on for the purpose of gain;
- (xi) to any telephone company having a capital of less than \$100,000;
- (xii) to any company organized on a co-operative basis;
- (xiii) to any company which, in the opinion of the Treasurer, was incorporated for the purpose of conducting a community hall, community rink, community cemetery, amateur athletic club or social club;
- (xiv) to any company which, in the opinion of the Treasurer, was incorporated for the purpose of holding buildings or other assets of fraternal organizations provided such buildings are not, in the opinion of the Treasurer, operated for the purpose of gain;
- (xv) to any transportation company having its head office and business outside of Ontario, and which, in the opinion of the Treasurer, maintains an office in Ontario only for the purpose of soliciting business for its system



outside of Ontario provided that, in the opinion of the Treasurer, it does not sell transportation at its Ontario office;

- (xvi) to goodwill included as an asset to the extent that such goodwill, in the opinion of the Treasurer, has no value;
- (xvii) to corporations paying tax under subsection 10 of this section upon their entire capital except as to any portion of capital not so taxed under the said subsection;
- (xviii) to corporations paying taxes under subsections 2, 3, 4, 5, 6, 8, 9, 11, 12 and 13 of this section; 1935, c. 12, s. 3 (4) *part*.
- (xix) to that portion of the paid-up capital of any incorporated company whose only business is the holding of real estate for sale or rent and the owning of buildings used as hotels and apartment houses, which is in excess of an amount of capital of which the net revenue earned from the operation of such business, before deduction of interest and dividends on any of the obligations of the incorporated company which are included as its paid-up capital, would be eight per centum; 1937, c. 2, s. 2 (2).

- (d) in this subsection the words "paid-up capital" shall mean and include the paid-up capital stock of the incorporated company, its surplus and reserve funds, except any reserve the creation of which is allowed as a charge against revenue under subsection 3 of section 4, all sums or credits advanced or loaned to the incorporated company by any other company, not including any bank, and all sums borrowed by the incorporated company by the issue of bonds, bond mortgages, debentures, mortgages or other like securities. 1935, c. 12, s. 3 (4) *part*.

Paid-up  
capital  
defined.

- (21) (a) Save as in this subsection otherwise provided every incorporated company having its head or other office in Ontario or which transacts business in Ontario whether under its own name or through an agent or otherwise shall pay a tax of \$50 for each office or place of business in Ontario, and every incorporated company which holds assets in Ontario but has no designated office or place of business, shall, in addition to all other taxes for which it may be liable, pay a tax of \$50;

Office tax.



- (b) Provided that the combined tax payable under this subsection and under subsection 20 of this section by a company having a paid-up capital of less than \$50,000 shall in no case be less than \$20 and subject to such minimum tax, the tax imposed in this subsection for each office or place of business shall be one-tenth of one per centum of the paid-up capital as defined in clause *d* of subsection 20;
- (c) Provided further that the provisions of this subsection shall not apply to corporations paying taxes under subsections 2, 3, 6, 8, 9, 11, 12 or 13 of this section;
- (d) Provided further that the provisions of this subsection shall not apply to any association incorporated without share capital;
- (e) Provided further that the following companies shall, in lieu of the tax imposed by this subsection, pay a tax of \$20,—
  - (i) A mining company which, in the opinion of the Treasurer, is not developing its properties;
  - (ii) Any company whose charter has not been surrendered and whose nominal head office is designated as being in Ontario and which in the opinion of the Treasurer has not commenced to do business or has ceased to do business and is entirely without assets;
- (f) Provided further that in lieu of the tax imposed by this subsection the following companies having a capital of less than \$20,000 shall pay a tax of \$5; having a capital of \$20,000 or over and less than \$40,000 shall pay a tax of \$10; having a capital of \$40,000 or over and less than \$60,000 shall pay a tax of \$15; having a capital of \$60,000 or over and less than \$80,000 shall pay a tax of \$25; having a capital of \$80,000 or over shall pay a tax of \$50,—
  - (i) Any company which, in the opinion of the Treasurer, was incorporated for the purpose of drainage, agriculture or colonization in Ontario;
  - (ii) Any company which, in the opinion of the Treasurer, was incorporated for religious, charitable, philanthropic, social or educational purposes and which is not, in the opinion of the Treasurer, carried on for the purpose of gain;

- (iii) Any telephone company having a capital of less than \$100,000;
- (iv) Any company organized on a co-operative basis;
- (v) Any company which, in the opinion of the Treasurer, was incorporated for the purpose of conducting a community hall, community rink, community cemetery, amateur athletic club or social club;
- (vi) Any company which, in the opinion of the Treasurer, was incorporated for the purpose of holding buildings or other assets of fraternal organizations provided such buildings are not, in the opinion of the Treasurer, operated for the purpose of gain. 1935, c. 12, s. 3 (5).

4.—(1) In addition to the taxes specified in section 3 <sup>Tax on net revenue.</sup> every incorporated company having its head or other office in Ontario, or which holds assets in Ontario, or which transacts business in Ontario whether under its own name or through an agent or otherwise shall pay a tax of one per centum calculated on the net revenue of the company.

(2) For the purposes of this section, net revenue means <sup>Net revenue defined.</sup> the annual net profit or gain of an incorporated company including profits directly or indirectly received from any trade, manufacture, or from commercial, financial or other business whether derived from a source within Ontario or elsewhere; and shall include interest, dividends and profits directly or indirectly received from money at interest upon any security or without security or from stocks or any other investment and also the annual net profit or gain from any other source including,—

- (a) the income from, but not the proceeds of, life insurance policies paid upon the death of the person insured;
- (b) rents, royalties and other like periodical receipts which depend upon the production or use of any real property of an incorporated company notwithstanding that the same are payable on account of the use or sale of any such property.

(3) Net revenue as defined in subsection 2 shall, for the <sup>Exemptions and deductions.</sup> purposes of this Act, be subject to the following exemptions and deductions,—

- (a) such reasonable amount as the Treasurer may allow <sup>Depreciation.</sup> for depreciation;

- Dividends. (b) dividends received from Canadian corporations where such corporations are taxable under this Act, and dividends received from Canadian corporations paying taxes under Provincial Corporations Tax or Provincial Income Tax Acts of other provinces where such provinces allow a similar exemption in respect of taxes paid under this Act;
- Interest. (c) interest on funds borrowed by the incorporated company, but the rate allowed hereunder shall not in any case exceed the rate determined by the Treasurer;
- Donations. (d) not more than ten per centum of the net revenue of any incorporated company which has actually been paid by way of a donation within the taxation period to, and receipted for, as such, by any charitable organization in Canada, operated exclusively as such and not operated for the benefit or private gain or profit of any person, member or shareholder thereof.
- Deduction not allowed. (4) In computing the amount of the net revenue of any incorporated company a deduction shall not be allowed in respect of,—
- Expenses not laid out to earn income. (a) disbursements or expenses not wholly, exclusively and necessarily laid out or expended for the purposes of earning the revenue;
- Capital outlay or losses, etc. (b) any outlay, loss or replacement of capital or any payment on account of capital or any depreciation depletion or obsolescence, except as otherwise provided in this section;
- Reserves, contingent accounts or sinking funds. (c) amounts transferred or credited to a reserve, contingent account or sinking fund, except such an amount for bad debts as the Treasurer may allow, and except as otherwise provided in this section;
- Carrying charges. (d) carrying charges or expenses on an unproductive property or assets not acquired for the purposes of the trade, manufacture or business of the incorporated company, or of a liability not incurred in connection with the trade, manufacture or business of the incorporated company;
- Limitations of certain expenses charged against profits. (e) the whole or any portion of any salary, bonus, commission or directors' fee which the Treasurer may consider in his opinion in excess of what is reasonable for the services performed;

- (f) the amount of tax paid on account of net revenue <sup>Income taxes.</sup> to the Dominion of Canada or to any jurisdiction including Ontario.
- (5) (a) Provided that the provisions of this section shall not <sup>Proviso.</sup> apply to corporations paying taxes under subsections 2, 3, 4, 5, 6, 9, 11, 12 or 13 of section 3.
- (b) Provided further that the provisions of this section shall not apply to electric companies paying taxes under subsection 10 of section 3.
- (6) Provided further that the provisions of this section shall not apply,—
- (a) to any company maintaining a head office or executive office or both in Ontario but whose business is carried on and situated entirely outside of Ontario and whose assets, other than investments in Dominion, provincial and Canadian municipal bonds, are situated entirely outside of Ontario;
- (b) to any company maintaining a head office or executive office or both in Ontario but whose assets consist of shares or obligations of subsidiary corporations whose business and assets are situated entirely outside of Ontario;
- (c) to any company incorporated for religious, charitable, philanthropic, social or educational purposes but which in the opinion of the Treasurer, is not carried on for the purpose of gain;
- (d) to any company whose affairs are in the hands of a liquidator, receiver or trustee, the assets of which are, in the opinion of the Treasurer, insufficient to meet its liabilities;
- (e) to any association incorporated without share capital;
- (f) to any company, which in the opinion of the Treasurer, was incorporated for the purpose of conducting a community hall, community rink, community cemetery, amateur athletic club or social club;
- (g) to any transportation company with its head office and transportation system outside of Ontario;
- (h) to any company whose gross revenue from investments



in Dominion, provincial or municipal debentures or in shares, bonds or other obligations of other companies is not less than ninety-five per centum of its total gross revenue. 1935, c. 12, s. 4.

#### PAYMENT OF TAX AND RETURNS.

Exemption  
of telegraph  
and tele-  
phone plant  
of railway.

**5.** The telephone and telegraph plant, poles and wires of a railway company which are used exclusively in the running of trains or for any other purpose of a railway and not for commercial purposes shall not be liable for the tax imposed by subsections 8 and 9 of section 3. R.S.O. 1927, c. 29, s. 4.

How tax  
to be  
determined.

**6.** Unless otherwise provided in this Act, any tax imposed by this Act shall be determined upon the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of such tax is to be ascertained as the same stood at the end of the fiscal year of the company for which such tax is imposed, provided that, in reference to the number of places of business, the number shall be the maximum number opened during such fiscal year. 1935, c. 12, s. 5; 1937, c. 2, s. 3.

How profits,  
etc., to be  
calculated.

**7.** The profits or gross or net revenue or earnings of any company in respect of which the amount of any tax imposed by this Act shall be calculated, shall be the profits or gross or net revenue or earnings for the fiscal year of the company for which the tax is imposed. R.S.O. 1927, c. 29, s. 6; 1937, c. 2, s. 4.

Company  
to file  
annual  
return.

**8.—(1)** Every company or incorporated company on which a tax is imposed by this Act shall on or before the last day of the month ending six months following the close of the fiscal year of such company in each year, without notice or demand, and any company or incorporated company on which a tax is or is not imposed by this Act shall upon receipt of a notice or demand in writing from the Treasurer or from any officer of the Treasury Department of the Province of Ontario authorized to make such demand, deliver to the Treasurer such return as the Lieutenant-Governor in Council may prescribe for the purpose of carrying out the provisions of this Act. 1935, c. 12, s. 6, *part*; 1937, c. 2, s. 5.

Verification  
of returns.

**(2)** The return and the certificate contained therein that the financial statements attached thereto are in agreement with the books of the company shall be verified by the signature of the president, or other officer having personal knowledge of the affairs of the company, and in the case of extra-



provincial companies of the manager or chief agent of the company in Ontario, or of such other person or persons connected with the company as the Treasurer may require. 1935, c. 12, s. 6, *part*.

**9.**—(1) The taxes imposed by this Act shall be deemed to be due on the last day of the fiscal year of the company or incorporated company for which such taxes are imposed and shall be payable on or before the last day of the month ending six months from the close of such fiscal year. 1935, c. 12, s. 7, *part*; 1937, c. 2, s. 6 (1).

Taxes,—  
when to  
accrue.

(2) Every company or incorporated company on which a tax is imposed by this Act shall send with the return required by this Act the amount of the tax payable, as estimated by the company on the return, and in default of payment as aforesaid a penalty of five per centum of the amount of the tax payable shall be added thereto and thereafter a further penalty of one per centum per month shall be added for each additional month or portion thereof during which the said tax and penalty remain unpaid. 1935, c. 12, s. 7, *part*; 1937, c. 2, s. 6 (2).

Tax to be  
forwarded  
with return.

(3) The penalties imposed by this section shall be recovered in the manner provided by *The Summary Convictions Act* and shall be payable to the Treasurer. 1935, c. 12, s. 7, *part*.

Recovery of  
penalties.  
Rev. Stat.,  
c. 136.

**10.**—(1) Notwithstanding the provisions of sections 8 and 9 any company or incorporated company whose fiscal year ended between the 1st day of January, 1936, and the 30th day of September, 1936, shall,—

Delivery of  
returns and  
payment of  
taxes.

(a) deliver the returns required by this Act in respect of such fiscal year to the Treasurer on or before the 31st day of March, 1937; and

(b) pay the taxes imposed by this Act for such fiscal year on or before the 31st day of March, 1937.

(2) The penalties imposed by subsection 2 of section 9 and subsection 1 of section 11 shall apply to the companies mentioned in subsection 1 as from the 31st day of March, 1937. 1937, c. 2, s. 7.

Penalties.

**11.**—(1) For every default in complying with the provisions of section 8, the company, the president and the directors of every company and any person acting as a representative of an extra-provincial company shall jointly and severally be liable to a penalty of \$20 for each day of such default.

Penalty for  
not making  
return.

Penalty for  
false  
statement.

(2) For any false statement contained in any return made by any company or incorporated company or in any information required by the Treasurer from any company or incorporated company, the company or incorporated company shall be liable to a penalty not exceeding \$10,000.

Recovery of  
penalties.  
Rev. Stat.,  
c. 136.

(3) The penalties imposed by this section shall be recovered in the manner provided by *The Summary Convictions Act*, and shall be payable to the Treasurer. 1935, c. 12, s. 8.

Enlarging  
time for  
making  
return.

**12.** The Treasurer may, before or after the time for making it, enlarge the time for making any return. R.S.O. 1927, c. 29, s. 10.

Returns  
examined.

**13.—(1)** The returns received by the Treasurer shall with all possible despatch be checked and examined.

Requisition  
by Treasurer  
for further  
information.

(2) If the Treasurer, in order to enable him to determine whether a return furnished is correct, desires further information, he may, by registered letter addressed to the president, manager, secretary or agent of the company, require a further return to be furnished under oath within thirty days.

Commission  
of inquiry.

(3) If the required information is not furnished to the satisfaction of the Treasurer, the Lieutenant-Governor in Council may direct inquiry to be made by a commissioner or commissioners appointed under *The Public Inquiries Act*, and the determination of the commissioner or commissioners, after having given all persons concerned an opportunity to be heard, shall, for the purposes of this Act, be final as to the particulars mentioned in the report, but the Lieutenant-Governor in Council may for cause vary the report; but the findings of the commissioner or commissioners shall not be varied so that the amount of the tax payable by the company shall be increased without giving the company an opportunity of being heard.

Rev. Stat.,  
c. 19.

Cost of  
commission.

(4) If the inquiry is occasioned by failure to furnish the information required by the Treasurer, subject to subsection 3, the company shall pay the costs of the inquiry, but if the return is found to be correct and the required information appears to have been duly furnished, the Treasurer may direct the costs or such of them as were necessary to be paid by Ontario.

Additional  
tax where  
amount  
understated.

(5) If the commissioner or commissioners find that the return understates the amount upon which the tax should be paid, the company, besides paying the costs of the inquiry,

shall pay the tax based on the amount as found by the commissioner or commissioners with fifty per centum added to the tax, unless the Lieutenant-Governor in Council shall otherwise direct.

(6) The costs of the commission may be fixed and certified by the Treasurer, or he may direct the same to be taxed, and when payable to the Crown the same may be recovered in the manner hereby provided for the recovery of a tax.

Taxation  
of costs.

(7) If the Treasurer directs the costs to be taxed the same shall be taxed by a taxing officer of the Supreme Court.

Who to tax  
costs.

(8) If the commissioner or commissioners find that the return understates the amount on which the tax should be paid, but also certify that such understatement was not made with intent to decrease the amount of the tax to be paid but was made in good faith and with no improper motive, the Lieutenant-Governor in Council may, upon the recommendation of the Treasurer, remit so much of the added percentage and so much of the costs as to him may seem meet.

When under-  
statement of  
amount  
made in  
good faith.

(9) If any company or incorporated company fails or refuses to keep adequate books or accounts for the purposes of ascertaining the amount of the tax payable under this Act, the Treasurer may require such company to keep such records and accounts as he may prescribe.

Books or  
accounts  
must be  
kept.

(10) Any return or information supplied by or on behalf of any company or incorporated company shall not be binding upon the Treasurer, and notwithstanding such return or information, or if no return has been made, the Treasurer may determine the amount of the tax to be paid by any company or incorporated company.

Treasurer  
not bound  
by returns.

(11) After examination of the return of the company or incorporated company, the Treasurer shall send a notice of assessment to the company verifying or altering the amount of tax as estimated in the return of the company and any additional tax found to be due over the estimated amount shall be paid within one month from the date of mailing of the notice of assessment, together with interest on such additional tax at the rate of six per centum per annum calculated from the last day prescribed for making such return.

Notice of  
assessment.

Payment of  
additional  
tax.

(12) If any company or incorporated company fails to pay such additional tax and interest, within one month from the date of the mailing of the notice of assessment aforesaid, the company shall pay in addition to the penalty provided by

Penalty for  
non-  
payment  
of additional  
tax.

section 9, a penalty of one per centum per month upon the said additional tax, for each month or portion thereof from the expiry of the period of one month from the date of the mailing of the said notice during which the said additional tax and interest remain unpaid.

Refund.

(13) (a) The Treasurer may refund at or prior to the issue of the notice of assessment, or after the issue of the notice of assessment, provided application in writing is made therefor by the taxpayer within six months from the date of the payment of the tax or the date on which the notice of the assessment was issued, any overpayment of tax or penalties made by the company or incorporated company.

Interest on  
refund

(b) A refund of tax made in accordance with clause *a* may be paid with interest at the rate of four per centum per annum thereon calculated from four months after the time the tax first became overpaid; provided that no interest will be paid where the refund of tax made is less than \$50.

Continuation  
of liability  
for tax.

(14) Notwithstanding any prior assessment or if no assessment has been made the company or incorporated company shall continue to be liable for any tax and to be assessed therefor and the Treasurer may at any time assess, reassess or make additional assessments upon any company or incorporated company for tax and penalties. 1935, c. 12, s. 9.

Transfer tax.

**14.**—(1) Upon every change of ownership consequent upon the sale, transfer or assignment of any share of stock of any association, company or corporation or of any bond, debenture or share of debenture stock made or carried into effect in Ontario, or of any participating interest in the operations or profits of any association, company or corporation, represented by certificates or other instruments of title capable of being sold, transferred or assigned including syndicate units, mineral deeds, oil royalties and fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities, and upon every order given to a broker in Ontario for the sale, transfer or assignment of any such securities when the order is to be executed outside Ontario, there shall be imposed, levied and collected a tax as follows:

- (a) Three cents for every \$100 or fraction thereof, of the par value of a bond, debenture or debenture stock;
- (b) Five cents for every share of stock sold or transferred at a price over \$150 per share;



- (c) Four cents for every share of stock sold or transferred at a price over \$75 per share but not more than \$150 per share;
- (d) Three cents for every share of stock sold or transferred at a price over \$50 per share but not more than \$75 per share;
- (e) Two cents for every share of stock sold or transferred at a price over \$25 per share but not more than \$50 per share;
- (f) One cent for every share of stock sold or transferred at a price over \$5 per share but not more than \$25 per share;
- (g) One-quarter of one cent for every share of stock sold or transferred at a price of \$1 to \$5 per share, but not more than \$5 per share;
- (h) One-tenth of one per centum of the value of every share of stock sold or transferred at a price less than \$1 per share; 1933, c. 10, s. 3, *part*; 1935, c. 12, s. 10 (1).
- (i) Three cents for every \$100 or fraction thereof of the value of every syndicate unit, mineral deed and oil royalty. 1935, c. 12, s. 10 (2).

(2) Except as hereinafter provided, if a change of ownership otherwise than by sale is effected, of any share of stock, such change of ownership shall be subject to the tax imposed by this section, computed on the basis of the current market price of the aforesaid share of stock.

(3) In any case where a current market price has not been established by recent sales, or where it is difficult to ascertain the value of the shares of stock, the Treasurer may fix a price which shall be the price on which the tax shall be paid. 1933, c. 10, s. 3, *part*.

(4) The said tax shall be payable in tax stamps or cash by the vendor, transferor or assignor, and the Lieutenant-Governor in Council may make regulations prescribing in any case or class of cases the manner in which and the persons by whom the amount of such tax shall be computed and collected for and on behalf of His Majesty, and may impose penalties for breach of any of such regulations. 1933, c. 10, s. 3, *part*; 1935, c. 12, s. 10 (3).

(5) The following transactions shall not be subject to the tax imposed by this section:



- (a) The sale, transfer or assignment of any bond, debenture or share of debenture stock of the Dominion of Canada or of any province of Canada;
- (b) The assignment of the allotment of the shares of any association, company or corporation or of the right to receive when issued the unallotted shares of any association, company or corporation;
- (c) The allotment by any association, company or corporation of its shares in order to effect an issue thereof and the first issue of a bond, debenture or share of debenture stock.

Records to  
be kept.

(6) Every person liable under this section or under regulations made hereunder to collect or pay the tax imposed by this section, shall keep records and books of account at his place of business in Ontario, adequate for the purposes and such records and books of account shall be open at all reasonable times to the inspection of the officers or other persons authorized by the Treasurer to inspect the same.

Inspection of  
records.

(7) Any person who in any way prevents or attempts to prevent any such officer or other person from having access to or inspecting any such records and books of account, and any person who being liable to keep such records and books of account, refuses to produce the same for inspection, shall be liable on summary conviction to a penalty of not less than \$500 and not exceeding \$5,000.

Assessment  
of tax when  
records not  
adequate.

(8) If any person liable to maintain records and books of account for the purposes of this section has, in the opinion of the Treasurer, failed to maintain adequate records and books of account, the Treasurer may assess the tax payable by such person under this section and the taxes so assessed shall be deemed to be due and payable forthwith.

Regulations.

(9) The Lieutenant-Governor, in Council may make regulations for the purpose of determining what constitutes a sale, transfer or assignment under this section. 1933, c. 10, s. 3, *part.*

Penalty.

(10) (a) Any person who, being thereto liable, neglects or refuses to pay the tax imposed by this section, or who violates any of the provisions of this section for which no other penalty is provided, or any regulations made thereunder, shall be liable for each such violation to a penalty of not less than the amount of the tax due and not exceeding the total of the amount of the tax due and \$500.

- (b) The penalties imposed by this subsection shall be recovered in the manner provided by *The Summary Convictions Act*, and shall be payable to the Treasurer. Recovery of penalties.  
Rev. Stat.,  
c. 136.
- 1935, c. 12, s. 10 (4).

**15.**—(1) Every corporation or company shall make an annual return to the Treasurer showing every sale, transfer or assignment of shares, or debenture stock issued by such corporation or company, made or carried into effect in Ontario, together with the amount of transfer tax collected. Returns as to transfers of stock, etc.

- (a) In the case of a company the shares or debenture stock of which are sold and transferred upon an incorporated stock exchange, the Treasurer may accept a return showing the total amount of such sales, transfers or assignments and the total amount of the transfer tax collected, in lieu of the return required by this subsection.

- (b) In the case of a company which has duly appointed a trust company as transfer agent for its shares or debenture stock the Treasurer may accept in connection with the annual return of such company a statement from the transfer agent to the effect that the tax on all transfers made during the preceding year has been accounted for in accordance with the provisions of this Act and the regulations pertaining thereto. R.S.O. 1927, c. 29, s. 13 (1).

(2) Such return shall be verified by the affidavit of the president of the corporation or in his absence by a director thereof. 1933, c. 10, s. 4. Verification of returns.

(3) If a corporation or company makes default in complying with the provisions of this section, the corporation or company shall incur a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the corporation or company who wilfully authorizes or permits such default shall incur the like penalty, and such penalties shall be recovered in the manner provided by *The Summary Convictions Act*, and shall be payable to the Treasurer. Penalty.  
Rev. Stat.,  
c. 136.

R.S.O. 1927, c. 29, s. 13 (4); 1935, c. 12, s. 11.

**16.**—(1) Any corporation or company entering or permitting the entry in any book or register under its control of any such sale, transfer, or assignment unless the tax be paid when such entry is made, shall incur a penalty of not less than \$20 or more than \$50. Transfer not to be made in books until tax paid.

Penalty for  
non-payment  
by transferor.

(2) In default of payment of the tax, the transferor shall incur a penalty of not less than \$20 or more than \$50. R.S.O. 1927, c. 29, s. 14, (1, 2).

Recovery of  
penalties.  
Rev. Stat.,  
c. 136.

(3) The penalties imposed by this section shall be recovered in the manner provided by *The Summary Convictions Act* and shall be payable to the Treasurer. 1935, c. 12, s. 12.

Sales  
through  
brokers not  
members  
of stock  
exchange.

**17.** Any sale, transfer or assignment made through a broker resident in Ontario not a member of a recognized stock exchange shall be deemed to be made and carried into effect in Ontario. R.S.O. 1927, c. 29, s. 15.

Taxes not to  
apply to  
transfers as  
security.

**18.** Sections 14, 15, 16 and 17 shall not apply to any transfer or assignment of shares, or debenture stock made *bona fide* for the security of loans, or to the retransfer or reassignment of the same to the borrower. R.S.O. 1927, c. 29, s. 16; 1930, c. 6, s. 5.

Remission or  
reduction.

**19.**—(1) The Lieutenant-Governor in Council may remit or reduce any tax imposed by section 14 which, because of the transfer being otherwise subject to taxation in another jurisdiction, or because several formal transfers are necessary to effect one true change of ownership, or which from any other similar cause appears to be unjust or oppressive.

Sale of  
stamps.

(2) The Lieutenant-Governor in Council may make arrangements with any person for the exclusive sale of stamps to him in any locality and for such time as he may think fit at a discount not exceeding five per centum. R.S.O. 1927, c. 29, s. 17 (1, 2).

Regulations.

**20.** The Lieutenant-Governor in Council may make regulations,—

- (a) specially authorizing officials of the Treasury Department to administer declarations or affidavits in connection with returns filed under this Act, but any person so specially authorized shall not charge any fee therefor;
- (b) for allocating the taxable capital or net revenue of companies transacting business in Ontario and other provinces or foreign countries;
- (c) for prescribing form of returns as may be deemed necessary for the purpose of carrying out the provisions of this Act;

- (d) for allocating a portion of capital or net revenue of companies or corporations to provide for impairment or depletion;
- (e) exempting in whole or in part any class or classes of business, any corporation in liquidation or in the hands of the receiver, and any company incorporated for drainage, agricultural, colonization, religious, charitable, philanthropic, social, or educational purposes;
- (f) authorizing the assistant treasurer or other officer of the Treasury Department to exercise such of the powers conferred by this Act upon the Treasurer as may be deemed more conveniently exercised by such officer;
- (g) generally for the better carrying out of the provisions of this Act. 1932, c. 8, s. 5; 1935, c. 12, s. 13.

**21.**—(1) In default of payment of any tax by this Act Collection of tax. imposed, the same may be levied and collected with costs by distress upon the goods and chattels wherever found of the company liable therefor under a warrant signed by the Treasurer directed to the sheriff of any county, and the sheriff shall levy and collect the tax or so much thereof as may be in arrear and all costs by sale of the goods and chattels of the company or so much thereof as may be necessary to satisfy the tax and costs. Distress.

(2) Any tax or penalty imposed by this Act may at the Action. option of the Treasurer be recovered by and in the name of the Treasurer, and the action shall be tried without a jury. R.S.O. 1927, c. 29, s. 19.

**22.** Every tax and penalty imposed by this Act shall be Priority of tax. a first lien and charge upon the property in Ontario of the company liable to pay the same. R.S.O. 1927, c. 29, s. 20.

**23.** An action brought by the Treasurer under this Act shall be brought and prosecuted in and by his name of office No abatement of actions. and may be continued by his successor in office as if no change had occurred. R.S.O. 1927, c. 29, s. 21.

**24.** If any doubt or dispute arises as to the liability of a company to pay a tax or any portion of a tax demanded Compromising disputes as to liability for taxes. under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Treasurer may



accept such amount as he may deem proper, and if the tax demanded has been paid under protest he may refund the same or any part thereof. R.S.O. 1927, c. 29, s. 23.

Distribution of one-half the revenue from railway tax among municipalities.

**25.**—(1) There shall be set apart from the Consolidated Revenue Fund on the 31st day of December in each year a sum equal to one-half the receipts of the Province during such year for taxes from railway companies under subsection 6 of section 3, after deducting therefrom the sum of \$30,000 and the sum so set apart shall, on the 31st day of December in each year, be credited to the cities, towns, villages and organized townships in Ontario in proportion to population as compared with the whole population of Ontario as shown by the last preceding Dominion census, and in the event of the population of any municipality being uncertain, owing to change of municipal boundaries, the Lieutenant-Governor in Council may determine the same for the purposes of this Act.

Fixing amounts.

(2) The Lieutenant-Governor in Council may fix the amount per head of the population to be so credited without allowing for fractions of a cent. R.S.O. 1927, c. 29, s. 24 (1, 2).

Debiting municipalities with cost of maintenance of patients.

Rev. Stat., c. 392.

(3) Against the amount so credited there shall be charged, as a contribution towards his maintenance, a sum amounting to ten cents per patient per day for each patient belonging to the municipality maintained for the whole or any part of such year in any institution within the meaning of *The Mental Hospitals Act*, other than the Ontario Hospital, Woodstock, such charge to be made only in respect of patients on account of whose maintenance the Province is not in receipt from any source of \$1.50 per week, or more. R.S.O. 1927, c. 29, s. 24 (3); 1935, c. 39, Sched.

Determining liability of municipalities to contribute to maintenance of patients.

(4) All questions as to the liability of a municipal corporation to such charge shall be determined by an officer designated for that purpose by the Minister of Health, whose decision may at any time and from time to time be varied or cancelled by himself or by any other officer designated by the Minister of Health, and the certificate of the Minister of Health declaring the amount of such charge shall be accepted and acted upon by the Provincial Auditor without further evidence as determining the amount to be deducted under subsection 3. R.S.O. 1927, c. 29, s. 24 (4); 1935, c. 39, Sched.

Payment of balance.

(5) The balance remaining at the credit of each municipal corporation after deducting such charge shall be forthwith paid by the Treasurer to the corporation. R.S.O. 1927, c. 29, s. 24 (5); 1930, c. 6, s. 6.



(6) The name of every patient in respect of whom the charge is made shall be furnished annually to the municipal corporation, but shall not be published in its accounts unless the council so direct. R.S.O. 1927, c. 29, s. 24 (6). Names of patients to be sent to municipalities.

**26.**—(1) No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this Act, or allow any such person to inspect or have access to any written statement furnished under the provisions of this Act. Secrecy.

(2) Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding \$200. 1932, c. 8, s. 6. Penalty.

**27.** Every tax which has been imposed by this Act prior to the 8th day of March, 1937, other than taxes imposed in respect of the transfer of shares and other securities and taxes payable in respect of race meetings, shall be deemed to have been imposed for the fiscal year of the company or incorporated company so taxed ending in the calendar year next preceding the calendar year in which such tax was payable. 1937, c. 2, s. 8. Taxes imposed prior to coming into force of section.

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## CHAPTER 30.

## The Provincial Land Tax Act.

Interpreta-  
tion.

## 1. In this Act,—

“Collector.”

(a) “Collector” shall mean Land Tax Collector appointed under this Act. R.S.O. 1927, c. 30, s. 1, cl. (a).

“Land.”

(b) “Land” shall include the interest in land of a tenant or occupant, and the interest of the holder of any license, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land and all buildings, improvements, substructures, superstructures and fixtures of an owner in or on land; but “land” shall not include,—

Exemptions.

(i) the interest of a timber licensee, lessee, grantee or concessionaire in a license, lease, or agreement issued under *The Crown Timber Act* nor any right in timber cut or to be cut by the holder of, or party to such license, lease or agreement, nor such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such license, lease or agreement;

Rev. Stat.,  
c. 36,

(ii) a mining claim or mining land or mining rights acquired under *The Mining Act* or any other Act for which that Act is substituted, nor any right, title or interest in any such mining claim, mining land or mining rights or in any building, works, machinery, improvements or structures therein or thereon or appurtenant thereto or connected therewith;

Rev. Stat.,  
c. 47.

(iii) any fixed machinery which under the provisions of *The Assessment Act* would be exempt from taxation in an organized municipality;

Rev. Stat.,  
c. 272.

(iv) a power house or a dam or other work for the storage of water or for the conveyance of water to the power house or any works, machinery, plant or appliances erected, constructed or used for the development of water power; nor

(v) any schoolhouse, building used for educational or charitable purposes, railway right-of-way, railway siding and railway station grounds. R.S.O. 1927, c. 30, s. 1, cl. (b); 1928, c. 8, s. 2 (1); 1937, c. 63, s. 2.

(c) "Minister" shall mean Minister of Lands and Forests; "Minister."

(d) "Owner" shall include a tenant or occupant and any person owning or enjoying an interest in land and the holder of any license, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land; "Owner."

(e) "Prescribed" shall mean prescribed by regulations made under this Act. R.S.O. 1927, c. 30, s. 1, cls. (c-e). "Pre-scribed."

**2.** Taxes shall not be payable under this Act in respect to land situate in any organized municipality nor in respect to any place of worship or land used in connection therewith, or any churchyard, cemetery or burying ground. R.S.O. 1927, c. 30, s. 2. When Act not to apply.

**3.** There shall be payable by the owner in respect of any lands to which this Act applies an annual tax not exceeding two per centum upon the value of the land or the taxable interest therein or upon such proportion of the value of such land or interest as the Lieutenant-Governor in Council may determine to be imposed and collected as hereinafter provided, but such tax shall not be payable in respect of any of the lands, rights or property mentioned in subclauses i to v of clause b in section 1, nor in respect of lands the owners of which are declared by the Lieutenant-Governor in Council to be exempt from such tax. R.S.O. 1927, c. 30, s. 3; 1930, c. 21, s. 4 (1). Annual tax.

**4.** The Lieutenant-Governor in Council may make regulations describing and determining the persons who and land which shall be exempt from the said tax under the provisions of section 3. 1930, c. 21, s. 4 (2). Regulations as to exemption from tax.

Rate,—how  
fixed and  
published.

5.—(1) The Lieutenant-Governor in Council shall fix the rate to be imposed each year and notice of such rate shall be given in the *Ontario Gazette* on or before the 1st day of July in each year. R.S.O. 1927, c. 30, s. 4 (1).

Reduction  
of rate in  
school  
sections.

(2) The Lieutenant-Governor in Council may upon the recommendation of the Minister reduce the amount of the tax collectable from the owner in respect of any land situated in any school section by fixing a lower rate in respect to any such school section, and may remit or adjust the amount of the tax in respect of any land and any penalties imposed by this Act. R.S.O. 1927, c. 30, s. 4 (2); 1937, c. 63, s. 3.

Amount  
of tax.

(3) There shall be payable in respect of all land the owner of which is liable to taxation under this Act, a tax of not less than \$2 on each parcel or lot, or where a parcel or lot has been divided or subdivided, on each separate portion into which such land has been divided or subdivided, and where such land has not been divided or subdivided and the total area thereof exceeds one hundred acres, the tax thereon shall not be less than \$2 on each one hundred acres nor less than two cents an acre on any or all acreage in excess of one hundred acres. 1928, c. 8, s. 3.

Land Tax  
Collector,—  
appointment  
of.

6. The Lieutenant-Governor in Council may appoint an officer to be known as the Land Tax Collector, and may appoint such other officers, clerks and servants as may be deemed necessary for the administration of this Act. R.S.O. 1927, c. 30, s. 5.

Return  
by owner.

7.—(1) Every owner of land in respect of which taxes are payable under this Act shall, on or before the 1st day of September preceding the year in which the value of the lands for assessment purposes is to be fixed under this Act, transmit to the Collector a statement in the prescribed form setting out the land of which he is owner, the number of acres included therein, and the value thereof, including the value of any improvements, buildings, clearing, fencing, works and structures of every kind.

Statement  
of owner  
hereafter  
acquiring  
land.

(2) Every person who after the 3rd day of April, 1928, becomes the patentee or grantee from the Crown of land in respect of which taxes are payable under this Act, and every person other than such patentee or grantee from the Crown to whom after such date any such land is assigned, transferred or conveyed shall, on or before the 1st day of September following the date on which he so becomes the owner, transmit to the Collector the statement provided for in subsection 1 of this section.

(3) Printed forms of return shall be supplied by the Collector upon request of the owner. Forms.

(4) Where any person assessed as an owner of land under this Act assigns, transfers or otherwise conveys his interest in such land he shall give notice to the Collector of such assignment, transfer or conveyance and the name and post office address of the person to whom the same was made, and in default such owner may be held liable for all taxes then payable or thereafter imposed in respect of such land until such notice is given. 1928, c. 8, s. 4 part. Statement as to change in ownership.

8. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners of land liable to taxation under this Act, search and inspect registry books and indexes in registry offices and books and documents in the custody of masters of titles, and no charge shall be made by and no fee shall be payable to a registrar or master of titles for any such search or inspection. R.S.O. 1927, c. 30, s. 7. Right to search registry and land titles office free of charge.

9.—(1) The Collector shall check and verify the returns received by him from owners and shall not be bound to accept any such return as determining the value of any land or improvements or works for the purpose of fixing the amount of taxes payable under this Act. Returns,—verification of, by Collector.

(2) The value to be put upon any land for the purposes of this Act shall be the price which it might reasonably be expected to bring if offered for sale in the open market by a solvent owner. Valuation of land.

(3) Where any industry, including manufacturing of pulp, lumbering, saw mills, fisheries or other operations is carried on, the land and improvements shall be valued as the property of a going concern. R.S.O. 1927, c. 30, s. 8. Valuation of improvements.

10. The Collector shall keep in his office a register in the prescribed form in which shall be entered the name of every owner making a return under this Act with such other particulars as may be prescribed. R.S.O. 1927, c. 30, s. 9. Register to be kept by Collector.

11.—(1) The Collector on or before the 15th day of September in each year shall by registered post notify every owner of land to whom this Act applies, of the value of the land or interest therein upon which such owner is to be taxed and the total amount payable by such owner. Notice of taxation.

(2) Every owner desiring to make complaint as to his Complaints as to assessments.



assessment shall, within thirty days after the date of registration of the notice provided for in subsection 1, transmit to the Collector a notice of complaint in the prescribed form.

Correction  
of errors.

(3) Notwithstanding the delivery or transmission of any notice provided for in this section the Collector at any time before the date for the hearing of the complaint has been fixed may correct any errors in any assessment and alter the register accordingly, and he shall do so upon notice being given to him of any errors and upon so correcting or altering any assessment he shall deliver or transmit to the person assessed an amended notice. 1928, c. 8, s. 5.

Notice of  
hearing of  
complaints.

**12.** Where complaints are transmitted to the Collector within the time hereinbefore limited, the Collector shall, at least fifteen days before the date of the hearing of the complaint, notify each person who has made a complaint of the time and place at which the judge of the county or district court shall sit for the tax division for the purpose of hearing complaints with regard to the value of the land in respect of which the owner is taxable. 1928, c. 8, s. 6.

Hearing.

**13.**—(1) The judge shall attend at the time and place arranged by the Collector for the hearing of such complaints, and, if no complaints are received within the time hereinbefore limited therefor, the sittings may be cancelled.

Finality  
of decision.

(2) The assessment as determined by the judge shall be final and binding and shall not be open to question or dispute in any action or proceeding or otherwise, and shall be deemed to be the assessable value of the land for the purpose of this Act for the year for which the assessment is made and for each year thereafter until the next following triennial assessment comes into effect. 1928, c. 8, s. 7, *part*.

When  
assessment  
to be made.

**14.**—(1) Where statements are required to be filed under the provisions of subsection 2 of section 7, assessments may be made at any time.

Triennial  
assessment.

(2) Subject to the provisions of subsection 1, assessments under this Act shall be made triennially and the triennial periods of assessment shall commence in the year 1928. 1928, c. 8, s. 7, *part*.

Powers of  
judge.

**15.** The judge upon the hearing of any complaints under this Act shall have the like powers as nearly as may be as in the case of a judge sitting for the hearing of appeals from the court of revision under *The Assessment Act* and the procedure

for the hearing of complaints under this Act shall be, as nearly as may be, the same as the procedure under *The Assessment Act*, except that the judge, in the absence of the consent of the Collector or his agent, shall hear such complaints only as are included in the list of assessments provided by the Collector as required by section 16. R.S.O. 1927, c. 30, s. 12; 1928, c. 8, s. 8.

**16.** The Collector or his agent shall attend at every sittings of the judge and shall have with him at the sittings a list of assessments as to which notices of appeal have been given as above provided, containing the names of the owners of land liable to assessment and taxation in the tax division for which the sittings are held, and he shall correct, alter and amend the roll in accordance with the directions of the judge. 1928, c. 8, s. 9, *part*.

Attendance of Collector at hearing of complaints.

**17.** The taxes imposed by this Act shall be due and payable on or before the 1st day of February in the year following that in which the value of the land for assessment purposes is fixed and shall be the taxes for and in respect of the calendar year in which they are payable and for each year thereafter until the next triennial assessment takes effect and shall be apportionable accordingly. 1928, c. 8, s. 9, *part*.

When tax to be payable for each year.

**18.** Where default is made in the payment of any tax under this Act, a penalty of five per centum shall be added and any taxes not paid before the 1st day of March in the year for which the same are payable shall, in addition to said penalty, bear interest at the rate of ten per centum per annum from said 1st day of March until paid. 1928, c. 8, s. 9, *part*.

Penalty for default in payment.

**19.** The taxes imposed by this Act shall be a first lien and charge upon the lands or interest of the owner and in addition thereto the owner shall be personally liable therefor as for a debt due to the Crown to be collected by the Collector, suing in his name of office, in any court of competent jurisdiction. R.S.O. 1927, c. 30, s. 16.

Unpaid taxes to be charge on land.

**20.** In addition to the collection of arrears of taxes by action as hereinbefore provided, the Collector may distrain for the same and shall have the like powers in that regard as a collector of taxes for a municipal corporation. R.S.O. 1927, c. 30, s. 17.

Collection by distress.

**21.**—(1) Where taxes are imposed on land or any interest therein under this Act and the same remain unpaid for a period of two years, the Minister by his certificate in writing

Forfeiture on non-payment of tax.

under his hand, may declare the lands, or the interest therein of the owner liable therefor forfeited to the Crown and upon publication of such certificate in the *Ontario Gazette* all right, title, interest, claim or demand of such owner in or to the lands shall cease and determine and the lands or the interest of the owner therein shall be vested in His Majesty for the use of the Province of Ontario and after the expiration of one year from such publication may be regranted, sold, leased or otherwise disposed of in the same manner as Crown lands or any interest therein may be dealt with under the laws of Ontario.

Forfeiture to be annulled on payment of taxes within one year.

(2) Where an owner or his representative within one year from the date of such publication pays or tenders to the Minister the amount of all taxes due with respect to any land so declared forfeited together with any penalties and interest and costs payable in respect thereof in accordance with this Act and the regulations, the Minister shall issue his certificate in writing signed by him and under his seal of office declaring such forfeiture cancelled and upon the registration of such certificate in the proper registry or land titles office such forfeiture shall be annulled and the land shall be revested in such owner or his representative according to the tenor of such certificate. R.S.O. 1927, c. 30, s. 18.

Right of mortgagee with respect to taxes.

**22.** A mortgagee, lien-holder or other person being the holder of a mortgage or charge upon any land in respect of which the taxes imposed by this Act are or may be payable, shall have and possess the same rights and remedies with respect to such taxes and the liability of the owner for the payment thereof as such mortgagee, lien-holder or holder of a charge would have with regard to municipal taxes payable in respect to land in an organized municipality. R.S.O. 1927, c. 30, s. 19.

Penalties; not making returns.

**23.** Every owner who refuses or neglects to make the return required by this Act within the prescribed period shall be guilty of an offence and shall incur a penalty of not less than \$5 nor more than \$50 for every day in which he is in default in making such return. R.S.O. 1927, c. 30, s. 20.

Making false returns.

**24.** Every owner who knowingly and wilfully makes a false return of any property liable for taxation under this Act shall be guilty of an offence and shall incur a penalty of not more than \$500 and in default may be imprisoned for a period not exceeding six months. R.S.O. 1927, c. 30, s. 21.

Regulations.

**25.** The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing the form of return to be made by owners of land under this Act;
- (b) prescribing the duties of the officers appointed for the administration of this Act and the collection of the taxes thereby imposed and the security to be given by such officers for the due performance of their duties and the due collection of and accounting for taxes received under this Act;
- (c) dividing the Province or any part thereof into "tax divisions" for the purposes of this Act;
- (d) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 30, s. 22.

**26.** Any notice or other written communication required by or given under the provisions of this Act may be given by registering and mailing the same in the post office, post-paid, to the Collector, or to the last known address of the owner of the land, as the case may be, and the notice or other written communication shall be deemed to have been received when it was so mailed. 1928, c. 8, s. 10.

**27.** Where a corporation is taxable in respect of an office or place of business under subsection 21 of section 3 of *The Corporations Tax Act* and is also taxable under this Act in respect of such office or place of business or the land upon which such office or place of business is located, the corporation shall be entitled to an exemption of the taxes paid under this Act in respect of such office, place of business or land to an amount equal to the the tax paid under *The Corporations Tax Act* in respect of such office or place of business, but not exceeding the amount of tax paid under this Act in respect of such office, place of business or land. 1937, c. 63, s. 4.

Notices,—  
how to be  
given.

Remission  
of taxes.  
Rev. Stat.,  
c. 29.



## CHAPTER 31.

## The Land Transfer Tax Act.

Tax on transfers of land.

Rev. Stat., c. 170.

1. Notwithstanding anything to the contrary in *The Registry Act* a tax of one-fifth of one per centum upon the amount of the purchase price shall be paid by the party registering same upon every transfer, conveyance, deed, instrument, or writing whereby any land, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or purchasers, or in any other person or persons by his, her or their direction. R.S.O. 1927, c. 31, s. 1.

Collection of tax by registrar or master of titles.

2. Such tax shall be collected by the registrar or master of titles, as the case may be, before he registers such transfer, conveyance, deed or other instrument, and any registrar or master of titles not paid by salary shall be entitled to retain to his own use two per centum of the moneys collected by him under section 1 hereof. R.S.O. 1927, c. 31, s. 2.

Tax to be payable only on one registration.

3. Provided that where any such instrument or instruments may be registered or entered in more than one registry office or land titles office or in a registry and land titles office the tax imposed hereby shall be payable once only in respect of any one transfer or conveyance, and shall be payable upon the delivery to the registrar or lodging in the land titles office the first instrument registered or lodged in such transaction. R.S.O. 1927, c. 31, s. 3.

Monthly returns by registrar and master.

4. The registrar and master shall within the first week of each month send to the Treasurer of Ontario a statement of the amount collected during the previous month in respect of said tax and shall pay over the amount thereof, less the percentage provided for in section 2, to the Treasurer of Ontario for the uses of Ontario. R.S.O. 1927, c. 31, s. 4.

Affidavit.

5.—(1) There shall be filed with the registrar or master an affidavit setting out the true consideration for the sale or transfer and the full and true amount in cash and the value of any property or security included in such consideration, and the amount or value of any lien or encumbrance subject to which such sale or transfer was made.



(2) The affidavit may be made by the purchaser or vendor or by any person acting for them under a power of attorney, or by an agent accredited in writing by the purchaser or vendor, or by the solicitor for either of them, or by some other person approved by the Treasurer of Ontario.

By whom to be made.

(3) The affidavit shall state that the person making the same has personal knowledge of the facts stated in the affidavit, and there shall be filed therewith the power of attorney or the accredited agent's authority referred to in subsection 2.

What to contain.

(4) Where the affidavit is made by the vendor or any person acting as attorney, agent or solicitor for the vendor, the vendor shall be personally liable to the Treasurer of Ontario jointly and severally with the purchaser for the amount of the tax payable under this Act.

When vendor liable for tax.

(5) Where the vendor is compelled to pay the tax payable under this Act or any part thereof, he shall have the right to recover any amount of such payment from the purchaser in an action in any court of competent jurisdiction. R.S.O. 1927, c. 31, s. 5.

Right of vendor to recover.

6. The Lieutenant-Governor in Council may make regulations prescribing the form of affidavit referred to in section 5, and generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 31, s. 6.

Regulations.

7. Where the lands covered by such transfer, conveyance or deed are partly in one registry division and partly in another or parts of the land are registered under *The Land Titles Act* and parts are subject to *The Registry Act*, the registrar or master receiving the tax shall retain the percentage mentioned in section 2, and shall pay over to the registrar or master in whose office any conveyance or transfer is subsequently registered or entered, such proportion of the percentage as may be agreed upon between them, and in case of disagreement the amount to be paid shall be determined by the Inspector of Registry Offices. R.S.O. 1927, c. 31, s. 7.

Where instrument covers lands in two or more divisions.

Rev. Stat., cc. 174, 170.

8. Where the right of the registrar or master to require the payment of the tax or any portion thereof under this Act is disputed by the person registering or lodging the transfer or conveyance, the tax may be paid under protest and the registrar or master shall give a receipt in writing signed by him for the amount paid, and shall state that the same has been received, and shall thereupon refer the matter to the decision of the Treasurer of Ontario or such official as the

Payment of tax under protest.

Treasurer may appoint, who may order the refund of the tax or any portion thereof to the person who paid the same. R.S.O. 1927, c. 31, s. 8.

Where  
agreement  
registered  
before  
June 1,  
1921.

**9.** This Act shall not apply to any transfer where the agreement for sale is registered before the 1st day of June, 1921. R.S.O. 1927, c. 31, s. 9.

Administra-  
tion of oaths.

Rev. Stat.  
cc. 174, 170.

**10.** Any person authorized for a like purpose under *The Land Titles Act* or under *The Registry Act* may administer an oath for any of the purposes of this Act. R.S.O. 1927, c. 31, s. 10.

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## CHAPTER 32.

## The Gasoline Tax Act.

## 1. In this Act,—

Inter-  
pretation.

- (a) "Gasoline" shall include any liquid derived from "Gasoline." petroleum, coal or natural gas whether or not it is mixed, combined or compounded with any other substance or material, as well as benzol and other liquids by whatever name known or sold, which are produced, prepared or compounded for the purpose of generating power by means of internal combustion or which may be used for such purpose, except the product commonly known as kerosene or coal oil when such product is not mixed or combined with gasoline, benzol or any other liquid described by this clause;
- (b) "Minister" shall mean Minister of Highways; "Minister."
- (c) "Purchaser" shall mean any person purchasing or "Purchaser." receiving delivery in Ontario of gasoline for his own use;
- (d) "Regulations" shall mean regulations made under "Regulations." the authority of this Act. 1936, c. 25, s. 2.

2. Every purchaser of gasoline shall pay to the Minister Tax  
for the use of His Majesty in right of the Province of Ontario, payable by  
a charge or tax at the rate of six cents per imperial gallon on purchaser.  
all gasoline purchased or delivery of which is received by him.  
1936, c. 25, s. 3.

3. The Lieutenant-Governor in Council may make Regulations.  
regulations,—

- (a) providing for the collection of the charge or tax imposed by this Act and designating the persons by whom the same shall be collected;
- (b) providing for the accounting for and paying over of any sums of money collected by or payable to the persons charged with the collection of the charge or tax imposed by this Act and regulating the time and manner of such accounting and payment;

- (c) prescribing the returns and statements to be made by importers, manufacturers, vendors and purchasers of gasoline, the information to be given in such returns and statements and by whom and in what manner they shall be made;
- (d) refunding any charge or tax paid under the provisions of this Act, or any portion thereof to any purchaser or class of purchasers and prescribing the material to be furnished upon any application for a refund;
- (e) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of the provisions of this Act and the regulations;
- (f) providing for the holding of inquiries into the operation of this Act and into any charge or complaint that any person has violated or failed to observe any provision of this Act or the regulations, or has made any false statement in any return or statement required to be made by this Act or the regulations, or into any other matter arising in the administration of this Act, and providing that the person holding such inquiry shall have all the powers of a commissioner appointed under *The Public Inquiries Act* including the power to take evidence under oath;
- (g) generally for the better carrying out of the provisions of this Act. 1936, c. 25, s. 4.

Rev. Stat.,  
c. 19.

Penalty,  
for making  
false  
return.

4. Every person charged with the collection of the charge or tax imposed by this Act and every officer, agent or employee of every such person who signs any return or statement required by this Act or the regulations, containing any false statement shall be guilty of an offence and shall be liable for a first offence to a penalty of not less than \$500 and not exceeding \$5,000, or to a term of imprisonment of not less than six months and not exceeding three years, or to both, and for a second or subsequent offence to a penalty of not less than \$1,000 and not exceeding \$10,000 or to a term of imprisonment of not less than one year and not exceeding seven years, or to both. 1936, c. 25, s. 5.

Penalty  
for violation  
of Act or  
regula-  
tions.

5. Everyone who violates any of the provisions of this Act or the regulations, for which no other penalty is provided, shall be guilty of an offence and shall be liable for a first offence to a penalty of not less than \$10 and not exceeding \$50, or to a term of imprisonment of not less than ten days

and not exceeding thirty days, or to both, and for a second or subsequent offence to a penalty of not less than \$50 and not exceeding \$500 or to a term of imprisonment of not less than thirty days and not exceeding six months, or to both. 1936, c. 25, s. 6.

**6.**—(1) No person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this Act, or allow any such person to inspect or have access to any written statement furnished under the provisions of this Act. Information under Act to be secret.

(2) Everyone who violates the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding \$200. 1936, c. 25, s. 7. Penalty.

**7.**—(1) Any information or complaint with respect to any violation of the provisions of this Act or the regulations may be laid or made within three years from the time when the matter of such information or complaint arose. Information or complaint within three years.

(2) The penalties imposed by this Act shall be recoverable under the provisions of *The Summary Convictions Act* and shall be payable to the Minister. 1936, c. 25, s. 8. Recovery of penalties. Rev. Stat., c. 136.

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2. *PUBLIC LANDS.*

## CHAPTER 33.

## The Public Lands Act.

Interpreta-  
tion.

## 1. In this Act,

“Depart-  
ment.”

(a) “Department” shall mean Department of Lands and Forests;

“Mines and  
Minerals.”

(b) “Mines and Minerals” shall include gold, silver, copper, lead, iron and other mines and minerals and quarries and beds of stone, marble or gypsum;

“Minister.”

(c) “Minister” shall mean Minister of Lands and Forests;

“Public  
Lands.”

(d) “Public Lands” shall include lands heretofore designated as Crown lands, school lands and clergy lands;

“Regula-  
tions.”

(e) “Regulations” shall mean regulations made by the Lieutenant-Governor in Council. R.S.O. 1927, c. 35, s. 1.

## PART I.

## DEPARTMENT OF LANDS AND FORESTS.

Department  
and Minis-  
ter of  
Lands  
and Forests.**2.** The Department of Lands and Forests shall be presided over by the Minister of Lands and Forests and shall have the management, sale and disposition of the public lands and forests. R.S.O. 1927, c. 35, s. 2.Deputy  
Minister of  
Lands and  
Forests.**3.—(1)** There shall be a Deputy Minister of Lands and Forests who shall be appointed by the Lieutenant-Governor in Council and shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister and in the absence of the Minister, or in case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister in respect to such matters as may have been assigned to him.

(2) There shall also be a Deputy Minister of Forestry <sup>Deputy Minister of Forestry.</sup> who shall be appointed by the Lieutenant-Governor in Council and shall perform such duties in connection with reforestation, forest protection, forest research and investigation and other matters as may be assigned to him by the Lieutenant-Governor in Council, or by the Minister, and in the absence of the Minister, or in case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to such matters as may have been assigned to him.

(3) There shall also be a Deputy Minister to be known as the Surveyor General who shall be appointed by the Lieutenant-Governor in Council and shall perform such duties in connection with the surveying of lands, investigation of water powers, engineering, inspection, research and such other matters as may be assigned to him by the Lieutenant-Governor in Council or by the Minister, and in the absence of the Minister or in the case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to such matters as may have been assigned to him. <sup>Surveyor General to be a deputy.</sup>

(4) Each of the Deputy Ministers shall before entering upon his duties take and subscribe an oath faithfully to discharge the same, which shall be administered by the Minister or by some person appointed by the Lieutenant-Governor in Council for that purpose. 1928, c. 9, s. 2. <sup>Oath of office.</sup>

4.—(1) The Lieutenant-Governor in Council may make such regulations as he may deem necessary to carry out the provisions of this Act, or to meet cases for which no provision is made by this Act. <sup>Power to make regulations.</sup>

(2) The regulations shall be published in the *Ontario Gazette*, and in such newspaper as the Minister may direct, and shall be laid before the Assembly forthwith if the Assembly is then in session and if it is not in session within fifteen days after the opening of the next session. R.S.O. 1927, c. 35, s. 4. <sup>Publication.</sup>

5. The Lieutenant-Governor in Council may appoint such officers and agents to carry out the provisions of this Act and of the regulations as he may deem necessary. R.S.O. 1927, c. 35, s. 5. <sup>Appointment of officers and agents.</sup>

6. The powers by this Act conferred on the Minister shall be exercised subject to the regulations and they may also be exercised by the Lieutenant-Governor in Council. R.S.O. 1927, c. 35, s. 6. <sup>Exercise of powers.</sup>

Annual  
Report.

**7.** The Minister shall annually lay before the Assembly within ten days after the meeting thereof, a report of the proceedings and transactions of the Department during the next preceding calendar year. R.S.O. 1927, c. 35, s. 7.

Security by  
Deputy  
Ministers  
and agents.

**8.** The Deputy Minister, and every public lands agent shall furnish such security for the due performance of their duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1927, c. 35, s. 8.

Purchase,  
etc., by  
agent of  
land, etc.,  
in his agency  
forbidden.

**9.—(1)** No public lands agent shall within the agency for which he is appointed, unless under the authority of the Minister, directly or indirectly purchase or become the owner of or interested in any public lands in such agency, and any such purchase or interest shall be void.

Penalty.

**(2)** For every contravention of this section the agent shall incur a penalty of \$400. R.S.O. 1927, c. 35, s. 9.

#### SURVEYS.

Survey of  
unsurveyed  
public lands.

**10.** The Minister, subject to the regulations and to the directions of the Lieutenant-Governor in Council, may cause to be surveyed and subdivided any of the unsurveyed public lands in such manner and according to such plan as he may deem proper. R.S.O. 1927, c. 35, s. 10.

Act subject  
to  
Rev. Stat.,  
c. 38.

**11.** This Act shall be subject to the provisions of *The Provincial Forests Act*. R.S.O. 1927, c. 35, s. 11.

#### GRANTS, SALES AND LICENSES OF OCCUPATION.

Appropriation for  
certain  
public  
purposes and  
free grants  
thereof  
made.

**12.—(1)** The Lieutenant-Governor in Council may set apart and appropriate such of the public lands as he may deem expedient for roads and for the sites of wharves or piers, market places, gaols, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and may make free grants for such purposes, and the trusts and uses to which they are to be subject shall be expressed in the letters patent; but no grant shall be for more than ten acres in any one case, and for any one of such purposes, except for a model or industrial farm, in which case the grant shall not be for more than one hundred acres.

Proviso.

Revocation.

**(2)** The Lieutenant-Governor in Council at any time before the issue of the letters patent may revoke any such appropriation. R.S.O. 1927, c. 35, s. 12.

**13.** The Lieutenant-Governor in Council may, from time to time, fix the prices at which the public lands are to be sold, and the terms and conditions of sale and of settlement. Lieutenant-Governor to fix price of public lands, etc.  
R.S.O. 1927, c. 35, s. 13.

**14.—(1)** The Minister may issue under his hand and seal a license of occupation to any person who has purchased, or is permitted to occupy, or is entrusted with the care or protection of any public lands or who has received or been located on any public lands as a free grant. Licenses of occupation.

(2) Such person or his assigns may take possession of and occupy the land for which the license is issued, subject to the conditions of the license, and may under it, unless it has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could under letters patent from the Crown. Effect of license of occupation.

(3) The license of occupation shall be *prima facie* evidence of the right to possession by such person and his assigns of the land, but shall have no force against a license to cut pine trees existing at the time of its issue or where the pine trees are reserved to the Crown against a license to cut such trees then existing or thereafter issued. R.S.O. 1927, c. 35, s. 14. As evidence.

**15.** The Minister shall have authority to determine all questions which arise as to the rights of persons claiming to be entitled to letters patent of land located or sold under the provisions of this Act and his decision shall be final and conclusive. R.S.O. 1927, c. 35, s. 15. Minister to decide as to right to patent.

#### FORFEITURE OF CLAIMS.

**16.** If the Minister is satisfied that a purchaser, locatee or lessee of public lands, or any person claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, location or lease, or of the license of occupation, or if the same was made or issued in error or by mistake, he may cancel such sale, location, lease or license, and resume the land and dispose of it as if the same had never been made. R.S.O. 1927, c. 35, s. 16. Cancellation of sale, etc., of land in case of fraud or error, etc.

**17.—(1)** Where a purchaser, locatee, lessee or other person refuses or neglects to deliver up possession of any land after the revocation or cancellation of the sale, location, lease or license of occupation thereof, or where a person is wrongfully in possession of public lands and refuses to vacate or abandon possession of the same, the Minister may apply to a Mode of obtaining possession, if the settler refuses to deliver up land, or a trespasser is in possession.



judge of the county or district court of the county or district in which the land or any part of it is situate for an order for possession, and the judge, upon proof to his satisfaction that the right or title of such purchaser, locatee, lessee or other person to hold the land has been revoked or cancelled, or that the person in possession is wrongfully in possession of the land shall make an order requiring him to deliver up the land to the Minister, or to any person authorized by him to receive possession of it, or the Minister may by his warrant require such purchaser, locatee, lessee or person to deliver up the land to the person named in the warrant.

Effect of  
order or  
warrant.

(2) The order or warrant shall have the same force as a writ of possession, and the sheriff, or bailiff, or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

Officer's  
right to  
demand  
assistance,  
etc.

(3) The sheriff, bailiff, or other person executing the order or warrant may take with him all necessary assistance, and shall have the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty.

Removal of  
trespassers  
from public  
lands.

(4) Where it appears to the Minister that the presence of any person, who is wrongfully or without lawful authority in possession of or occupying any public lands, is dangerous to the safety of any timber or other public property on such land or in its vicinity, and it is expedient for that or any other reason to remove him from such land, the Minister may by warrant authorize any member of the Ontario Provincial Police Force, forest ranger, public lands agent, or other officer or person to remove such person from such land and also to remove therefrom any building, structure or tent erected or used by such person.

Person re-  
moved may  
be again  
removed.

(5) If any person who has given up possession of or has been removed from any land under the authority of this section again returns to or enters upon it the order or warrant shall be a sufficient authority to the officer or person named in it, again to remove such person from the land and the power of removal may be exercised under such order or warrant from time to time, and as often as occasion may require.

Penalty for  
obstruction,  
etc.

(6) Every person who refuses to obey any such order or warrant, or who resists, obstructs or interferes with any person executing it, or who again returns to the land, shall incur



a penalty of not less than \$20 or more than \$100, recoverable under *The Summary Convictions Act*, and shall also be liable to imprisonment for any term not exceeding six months. R.S.O. 1927, c. 35, s. 17.

Rev. Stat.,  
c. 136.

#### ALIENATION OF UNPATENTED LANDS.

**18.**—(1) Except with the consent in writing of the Minister, public lands, which have been purchased under this Part, shall not, before the issue of letters patent, be alienated, mortgaged, or charged, either voluntarily or involuntarily, except by devise or sale under the authority of any Act of the Legislature of Ontario, relating to taxation or statute labour.

Restraint on  
alienation of  
rights in  
unpatented  
lands.

(2) Except by mortgage or charge thereon made in favour of the Crown neither the land nor any interest or right therein shall, before the issue of letters patent, be liable for the satisfaction of any debt or liability contracted or incurred by the said purchaser, his widow, heirs or devisees. R.S.O. 1927, c. 35, s. 18.

Lands not  
to be liable  
for debts  
incurred  
before  
patent.

#### RENT IN ARREAR.

**19.** Where rent payable to the Crown on a lease of public lands is in arrear, the Minister or an agent or officer appointed under this Act and authorized by the Minister to act in such cases, may issue a warrant, directed to any person named in it, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last mentioned cases; or an action may be brought in the name of the Minister for the recovery of the arrears, but a demand of the rent shall not be necessary in any case. R.S.O. 1927, c. 35, s. 19.

Issue of  
distress  
warrant  
for rent in  
arrear;

or action  
may be  
brought.

#### PATENTS ISSUED IN ERROR.

**20.**—(1) Where letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Minister, if there is no adverse claim, may direct the defective patent to be cancelled and a correct one to be issued in its stead, and the corrected letters patent shall relate back to the date of the one so cancelled and shall have the same effect as if issued at the date of such cancelled letters patent.

Cancellation  
of erroneous  
patents.

(2) The powers conferred by subsection 1 may be exercised notwithstanding that the land has been registered under *The Lands Titles Act*. R.S.O. 1927, c. 35, s. 20.

Correction  
of errors in  
patent after  
registration.  
Rev. Stat.,  
c. 174.

Compensation in case of double or inconsistent grants.

**21.** Where grants or letters patent for the same land inconsistent with each other have been issued through error, or where sales or appropriations of the land inconsistent with each other have been made, the Minister may, in cases of sale, cause a repayment of the purchase money, with interest to be made to the person damnified, or where the land has passed from the original purchaser, or has been improved before discovery of the error, or where the original grant or appropriation was a free grant, he may in substitution appropriate land or give a certificate entitling the person damnified to public lands, of such value and to such extent as the Minister may deem just; but no claim shall be entertained unless it is made within five years from the discovery of the error. R.S.O. 1927, c. 35, s. 21.

Proviso.

Compensation for deficiency of land by reason of false survey or error in departmental books or plans.

**22.**—(1) Where by reason of erroneous survey or of error in the books or plans in the Department any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the letters patent therefor, the Minister may direct that the purchase money of so much land as is deficient, with interest thereon from the time of the application for a refund or if the land has passed from the original purchaser, the Minister may direct that the purchase money which the claimant, if he was ignorant of the deficiency at the time of his purchase, paid for so much of the land as is deficient, with interest thereon from the time of the application for a refund, be paid to him in land or money, as the Minister may direct.

Case of free grants.

(2) In the case of a free grant, the Minister may direct a grant to be made of other land equal in value to so much of the land intended to be granted as is deficient, as a free grant.

Limitations.

(3) No claim shall be entertained unless it is made within five years from the date of the letters patent, or unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the land granted. R.S.O. 1927, c. 35, s. 22.

Registration of judgments.

**23.** If letters patent for land are repealed or avoided in a judicial proceeding, the judgment shall be registered in the registry office of the registry division in which the land lies or in the proper land titles office as the case may be. R.S.O. 1927, c. 35, s. 23.

## REDUCTIONS OF PRICE AND ABATEMENTS OF INTEREST.

**24.**—(1) The Minister may reduce the price of any public lands sold by the Crown before the 1st day of July, 1890, where it appears that the land was sold at a price beyond its fair value, and that the price or part of it remains unpaid, but the reduction shall not exceed the amount which remains unpaid.

Reduction in the price of lands sold by the Crown beyond their fair value.

(2) The Minister may also make such abatement as he may deem just, of the arrears of interest upon the unpaid purchase money of any public lands sold by the Crown, before the 1st day of July, 1890.

Abatement of interest.

(3) Before any reduction or abatement is made under subsection 1, the land shall be examined and valued by an inspector appointed for that purpose by the Minister.

Inspection of lands.

(4) The reduction and abatement shall be confined to cases in which the purchaser from the Crown or some person claiming under him is in occupation of the land and is an actual settler on it, or on land adjacent to it.

Persons entitled to a reduction.

(5) Such reductions and abatements in the case of school lands shall be made only in respect of, and in proportion to, the share or interest of Ontario in the lands, and the price thereof, and shall not extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof.

Reduction in case of school lands not to affect share of Quebec.

R.S.O. 1927, c. 35, s. 24.

## RETURNS.

**25.** The Minister shall in the month of February in every year transmit to the treasurer of every county and of every local municipality in territory without county organization, a list of all land within the county or local municipality patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a license of occupation was issued during the next preceding calendar year, and the Minister shall in like manner inform every such treasurer of the cancellation of any license of occupation, sale, lease, location, or appropriation. R.S.O. 1927, c. 35, s. 25.

Annual lists of lands granted, etc., to be furnished by Minister to county treasurers.

**26.**—(1) The Provincial Secretary shall, once in every three months, furnish to the registrar of every registry division, a statement containing a list of the names of all persons, to whom letters patent have been issued for land within the registry division during the next preceding three months.

Provincial Secretary to furnish registrar with quarterly statement of Crown grants.

and of all persons whose letters patent have been cancelled during that period with such general or particular descriptions of the land as the case may require.

Duty of registrar where land under Rev. Stat. c. 174.

(2) Where a list of patented lands, furnished under this section contains any land to which section 160 of *The Land Titles Act* applies, it shall be stated in the list that such land is subject to that Act, and in such case and also whenever the Provincial Secretary notifies the registrar of a registry division of the issue of a patent of land to which that section applies, the registrar shall in the abstract index enter the fact that the land is subject to *The Land Titles Act* and shall not thereafter receive for registration any instrument affecting the land. R.S.O. 1927, c. 35, s. 26.

#### OFFENCES AND PENALTIES.

Employees of the Department not to traffic in public lands or take fees.

**27.**—(1) No person holding an office in or under the Department, and no person employed in or under the Department, except in the case provided for by section 9, shall directly or indirectly purchase any right, title or interest in any public lands, or any land script, or deal or traffic in the same, either in his own name, or by the interposition of any other person, or in the name of any other person in trust for himself, or take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment.

Penalty.

(2) Every person who contravenes the provisions of subsection 1 shall incur a penalty of \$400. R.S.O. 1927, c. 35, s. 27.

Penalty on agent knowingly giving false information, etc.

**28.** An agent to receive applications for the sale or location of public lands who knowingly and falsely informs, or causes to be informed, any person applying to him to locate or purchase any land within his division that the same has already been located, appropriated or purchased, or refuses to accept from the person so applying an application to purchase the land, or where so entitled, to locate it according to the regulations, or does not forthwith transmit an application to the Department, shall be liable therefor to the person so applying, in the sum of \$5 for each acre of land which he offered to locate or purchase. R.S.O. 1927, c. 35, s. 28.

#### MISCELLANEOUS.

How notices required to be given may be given.

**29.** Where by law or by any deed, lease or agreement relating to any public lands any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and such act may be done by the Minister



or the Deputy Minister, or by a person acting under the authority of either of them. R.S.O. 1927, c. 35, s. 29.

**30.**—(1) Affidavits required under this Act or under *The Crown Timber Act*, or under any other Act relating to the affairs of the Department, and affidavits intended to be used in reference to any claim, business or transaction in the Department, or in respect of which the Department is interested, or which affects the revenue of Ontario under the control of the Department, may be taken before any person having authority to administer oaths, or before the clerk of any county or district court, or before the Minister or Deputy Minister or any agent of the Department under whatever Act or authority such agent may have been appointed an agent, or before any person appointed for that purpose by the Minister or Deputy Minister, or before an Ontario land surveyor appointed by the Minister or Deputy Minister to inquire into, take evidence in or report upon any matter pending in the Department.

Before whom affidavits under this Act may be made.  
Rev. Stat., c. 36.

(2) Such affidavits, if made out of Ontario, may be taken before any person having authority under *The Evidence Act* to administer oaths out of Ontario. R.S.O. 1927, c. 35, s. 30.

Rev. Stat., c. 119.

**31.** A copy of any instrument made or issued under the hand of the Minister or of the Deputy Minister or of any officer or agent of the Department under the authority of this Act or of *The Crown Timber Act*, or under the authority of the regulations made under those Acts, purporting to be certified by the Minister, Deputy Minister, officer or agent as a true copy of such instrument, shall be *prima facie* evidence of the instrument and of its contents in all courts and before all officers and persons having by law or by the consent of parties authority to hear, receive, and examine evidence. R.S.O. 1927, c. 35, s. 31.

Certified copy of instrument to be evidence.  
Rev. Stat., c. 36.

**32.** The Minister may sell, lease and make appropriations of land covered with water in the harbours, rivers and other navigable waters in Ontario, under such conditions as he may deem proper, but not so as to interfere with the use of any harbour as a harbour, or with the navigation of any harbour, river or other navigable water. R.S.O. 1927, c. 35, s. 32.

Sales and appropriations of water lots may be made.

## PART II.

### FREE GRANTS TO ACTUAL SETTLERS.

**33.** Except as hereinafter and in section 12 otherwise provided, no free grant of public lands shall be made. R.S.O. 1927, c. 35, s. 33.

Free grants limited.



Free grants  
to actual  
settlers.

**34.** The Lieutenant-Governor in Council may set apart and appropriate any territory which he may deem suitable for settlement and cultivation, for the purpose of a free grant of the lands therein being made to actual settlers, under and subject to the regulations. R.S.O. 1927, c. 35, s. 34.

Locatee  
defined.

**35.** The person to whom land is allotted or appropriated as a free grant shall be deemed to be located for the land within the meaning of this Act, and is hereinafter called the locatee. R.S.O. 1927, c. 35, s. 35.

Right of  
head of  
family to  
free grant.

**36.**—(1) The head of a family, with a child or children under eighteen years of age residing with him, may be located for a free grant to the extent of one hundred and sixty acres in townships surveyed in sections of six hundred and forty acres or in lots three hundred and twenty acres, or to the extent of two hundred acres in the remainder of the free grant territory.

Right of  
male, with-  
out child, to  
free grant.

(2) A male of the age of eighteen years or upwards without a child, may be located for a free grant to the extent of one hundred and sixty acres in townships surveyed in sections of six hundred and forty acres or in lots of three hundred and twenty acres, or to the extent of one hundred acres in the remainder of the free grant territory.

Right of  
locatee to  
purchase  
additional  
land.

(3) In townships surveyed in sections of six hundred and forty acres or lots of three hundred and twenty acres, in addition to being located, as provided for by subsection 1, every head of a family having a child or children under eighteen years of age residing with him may purchase eighty acres, and in the remainder of the free grant territory one hundred acres, adjacent to his location at fifty cents an acre, payable in cash.

Right to  
purchase in  
Kenora or  
Rainy River.

(4) Where a person has made substantial improvements on two or more adjoining lots in the District of Kenora or the District of Rainy River, and the lots contain more land than he is entitled to locate and purchase, the Minister may sell to him at fifty cents per acre such additional land as under the circumstances the Minister may deem proper.

Allowance  
for rock,  
lakes or  
swamp.

(5) Where it appears to the Minister that by reason of rock or swamp a lot or parcel of land containing one hundred acres which he is about to allot does not contain that quantity of land that can be made available for farming purposes, he may increase the number of acres to be allotted to the locatee so that there shall be allotted to him one hundred acres of farming land, but the quantity allotted shall in no case exceed two hundred acres.

(6) The powers conferred on the Minister by subsection 5 may also be exercised in respect of land which has been located.  
In case of located land.

(7) Where the whole or an aliquot part of a section or lot is or is to be located, it shall be deemed for the purpose of the location to contain the quantity of land which according to the original survey it was intended to contain. R.S.O. 1927, c. 35, s. 36.  
Quantity in lot, etc., according to original survey to govern.

**37.** Before a person is located he shall make an affidavit, which shall be deposited with the agent to whom the application is made, stating that he has not been located for any land under this Part, and that he is of the age of eighteen years or upwards, that he believes the land for which he desires to be located is suitable for settlement and cultivation and is not chiefly valuable for its pine trees or for its mines and minerals, and that the location is desired for his own benefit, and for the purpose of actual settlement and cultivation of the land, and not, either directly or indirectly, for the use or benefit of any other person, or for the purpose of obtaining, possessing, or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or mines or minerals therein, and where the applicant is the head of a family, and has a child, or children under eighteen years of age residing with him or her, that fact shall be stated in the affidavit. R.S.O. 1927, c. 35, s. 37.  
Affidavit of person desiring location.

**38.** Any person who has obtained letters patent under this Part may, on proving to the satisfaction of the Minister that he has *bona fide* and absolutely parted with the patented land, obtain another location. R.S.O. 1927, c. 35, s. 38.  
Second location may be obtained.

**39.—(1)** A patent shall not be issued for land located or sold under this Part until the expiration of three years from the date of the location or sale, or until the locatee or some one claiming under him, has performed the following settlement duties;—  
Patent not to issue before expiration of three years.

(a) has cleared and has under cultivation at least fifteen acres of the land of which at least two acres have been cleared and cultivated in each of the three years next after the date of the location;  
Settlement duties required.

(b) has built on the land a house, fit for habitation, of the dimensions of at least sixteen feet by twenty feet; and

(c) has actually and continuously resided upon and

cultivated the land for the three years next after the date of the location or sale, and from thence to the time of the issue of the letters patent.

Effect of temporary absence.

(2) Absence from the land for not more than one month next after the date of the location or for not more than six months during any one year shall not be deemed for the purposes of clause *c* a cessation of resident if the land has been cultivated during that year.

Option as to settlement duties.

(3) Where additional land is purchased by a locatee under the provisions of section 36 the settlement duties may be performed either on the located or the purchased land or partly on both.

Rights to subsequent locations.

(4) Where a locatee has not been located for the full quantity of land for which he was entitled to be located, or, having been located for the full quantity, has afterwards become the head of a family with a child or children under eighteen years of age residing with him, he shall be entitled to be located in the former case for sufficient additional adjacent land to make up the full quantity for which he was entitled to be located, and in the latter case for sufficient additional adjacent land to make up the full quantity for which he would have been entitled to be located, if at the time he was located he had been the head of a family having a child or children under eighteen years of age residing with him, but it shall not be necessary for him to perform settlement duties on the subsequently located land, if the settlement duties have been performed on the land first located.

Option in such cases as to duties.

Latitude as to performance of settlement duties.

(5) Where the settlement duties have not been performed or completely performed on the land first located, the Minister may, subject to the regulations, permit them to be performed or completed either on the land first located or the subsequently located land or partly on both. R.S.O. 1927, c. 35, s. 39.

Location to be forfeited if settlement duties not performed.

**40.** If such settlement duties are not performed, the Minister may direct that the location be forfeited, and thereupon all rights of the locatee, and of every one claiming under him, in the land shall cease. R.S.O. 1927, c. 35, s. 40.

When patent may issue before three years.

**41.** If a person entitled to obtain a location under the provisions of this Part has, within objection by the Crown, for a period of four years or more occupied and has made the prescribed improvements upon one or more lots, not exceeding in quantity that which may be granted under this Part, before the land was opened for location as free grant

land, or if the land was open for location, and has so occupied and improved the land but through inadvertence or oversight has not been located for it, the Minister, if satisfied that the land is not chiefly valuable for its pine trees, subject to the regulations, may, after location under this Part, direct the issue of the letters patent upon proof of the performance of the prescribed settlement duties and without waiting for the expiration of three years from the date of the location. R.S.O. 1927, c. 35, s. 41.

**42.** Subject to sections 39 and 41 and to the regulations, where the owner and occupant of land in the free grant territory, acquired otherwise than as a free grant, is desirous of obtaining a free grant under this Part of land adjacent to such first mentioned land, the Minister may dispense with the performance of the settlement duties on such adjacent land and may direct the immediate issue of letters patent therefor, if he is satisfied that there are at least thirty acres cleared upon such first mentioned land. R.S.O. 1927, c. 35, s. 42.

Settlement duties may be dispensed with in certain cases.

#### PINE TREES.

**43.**—(1) Subject to section 52, pine trees standing or being upon land located or sold under Part II, shall be reserved from the location or sale, and shall remain the property of the Crown, and except in the case of land in the Districts of Kenora and Rainy River, the letters patent for all land so located or sold shall contain a reservation of all pine trees standing or being on the land and they shall remain the property of the Crown.

Reservation of pine trees.

(2) In the Districts of Kenora and Rainy River the pine trees remaining at the time of the issue of the letters patent on land located or sold shall pass to the patentee.

Kenora and Rainy River.

(3) The locatee, or purchaser, and those claiming under him may nevertheless cut and use such pine trees as may be necessary for the purpose of building, and fencing on the land so located or sold, and may also cut and dispose of all trees required to be removed in the actual clearing of the land for cultivation, but no pine trees except for such necessary building and fencing shall be cut beyond the limit of such actual clearing.

Right to clear, etc.

(4) Pine trees cut in the process of clearing, and sold or otherwise disposed of, shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber.

Pine trees sold to be subject to timber dues.



Locatee of two or more lots may cut pine on any lot for building, fencing, etc.

(5) Where the land comprises two or more lots, or parts of two or more lots, the locatee or purchaser, and those claiming under him, may cut such pine trees as may be necessary for the purpose of such building and fencing, on any one or more of such lots or parts of lots, and may use pine trees on the lot on which they are cut or on any of the other lots or parts of lots, whether located or purchased at the same time or otherwise.

Right of timber licensees.

(6) Subject to subsections 2, 3 and 5, any person holding a license to cut timber on such land may at all times during the continuance of the license, and before or after the issue of the letters patent, enter upon the uncleared portion of such land, and cut, and remove such pine trees and make all necessary roads for that purpose and for the purpose of hauling in supplies, doing no unnecessary damage thereby. R.S.O. 1927, c. 35, s. 43.

Payment by Crown to patentees of part of dues.

**44.**—(1) The patentee of free grant land located or sold after the 5th day of March, 1880, and his assigns, shall be entitled to be paid out of the Consolidated Revenue Fund, on all pine trees cut on such land subsequent to the 30th day of April next after the date of the patent, and upon which dues have been collected by the Crown, the sum of thirty-three cents for each one thousand feet, board measure, of saw-logs, and \$4 for each one thousand cubic feet of square or waney timber, and the Lieutenant-Governor in Council may make regulations for carrying out the provisions of this section.

Kenora and Rainy River.

(2) This section shall not apply to the Districts of Kenora and Rainy River. R.S.O. 1927, c. 35, s. 44.

#### ALIENATION AND EXEMPTION FROM DEBT AND DEVOLUTION OF LAND.

Land not to be alienated, etc., before issue of patent.

**45.**—(1) Neither the locatee nor any one claiming under him, shall have power without the consent in writing of the Minister, to alienate, otherwise than by devise, or to mortgage or charge any land located as a free grant or any right or interest therein before the issue of the letters patent.

After issue of patent, alienation, etc., to be by locatee and wife jointly.

(2) Except as provided in section 46, no alienation, otherwise than by devise, and no mortgage or charge of the land, or of any right or interest therein by the locatee after the issue of the letters patent, and within twenty years from the date of the location, and during the lifetime of the wife of the locatee, shall be valid or of any effect, unless the wife of



the locatee is one of the grantors with her husband, nor unless the instrument is duly executed by her.

(3) Where the wife of a locatee is,

(a) a mental incompetent or a person of unsound mind, and confined in an institution under *The Mental Hospitals Act*; or

Conveyance of lands by locatee without concurrence of wife under certain circumstances.

(b) has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony; or

Rev. Stat., c. 392.

(c) has not been heard of for seven years under such circumstances as raise a legal presumption of death;

at any time after the issue of the letters patent a judge of the Supreme Court or a judge of the county or district court of the county or district in which the land or any part of it is situate, may by an order made in a summary way upon such evidence as to him seems meet, dispense with the concurrence of the wife for the purpose of conveying, mortgaging or charging the land.

(4) In the cases provided for by clauses *a* and *b* of subsection 3, notice of the application shall be personally served upon the wife unless the judge otherwise directs.

Notice of application.

(5) The order may be made subject to conditions or directions for the benefit of the children of the locatee, and, subject thereto it shall operate to bar the right, title, and interest of the wife in the land to the same extent as if she being of sound mind had been one of the grantors with her husband, and had duly executed the conveyance, mortgage or charge. R.S.O. 1927, c. 35, s. 45.

Conditions for benefit of children.

**46.**—(1) Neither the land nor any interest or right therein, shall in any event be or become liable for the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issue of the letters patent.

Exemption from liability for debt before issue.

(2) After the issue of the letters patent, and while the land, or any part of it, or any interest in it is owned by the locatee or his widow, heirs, or devisees, the same shall during the twenty years next after the date of the location be exempt from attachment, levy under execution, or sale for the payment of debts, and shall not be or become liable for

Exemption after issue of patent.

the satisfaction of any debt or liability contracted or incurred before or during that period, except a debt secured by a valid mortgage or charge of the land made after the issue of the letters patent. R.S.O. 1927, c. 35, s. 46.

(NOTE.—As to liens for advances under *The Northern Development Act*, see Rev. Stat. c. 34 and as to liens under *The Farm Loans Act*, see Rev. Stat. c. 79).

Patents to state date of location, etc.

**47.** In the body of the letters patent the name of the original locatee, the date of the location, and that the letters patent are issued under the authority of this Part shall be stated. R.S.O. 1927, c. 35, s. 47.

Life estate to widow of locatee.

**48.** On the death of the locatee, whether before or after the issue of the letters patent, all his then interest and right in the land shall descend to, and become vested in, his widow during her widowhood in lieu of dower, but the widow may elect to have her dower in the land in lieu of this provision. R.S.O. 1927, c. 35, s. 48.

Dower.

Exemption not to extend to taxes.

**49.** Nothing in this Part shall exempt the land from levy or sale for rates or taxes legally imposed. R.S.O. 1927, c. 35, s. 49.

The Minister may remit sums due by settlers in free grant townships.

**50.** The Minister may, by remitting any sum due to the Crown in respect of his land by such settler, place any *bona fide* settler in free grant territory, who settled thereon before it was opened for settlement as free grant territory and who is in the occupation of the land, in the same position as if his land had been free grant land at the time he settled on it. R.S.O. 1927, c. 35, s. 50.

### PART III.

#### PROVISIONS OF GENERAL APPLICATION.

Power of Minister to open land for location and sale.

**51.**—(1) Where it appears to the Minister that any public lands not opened for settlement or sale are not chiefly valuable for their pine trees, the Minister may, with the approval of the Lieutenant-Governor in Council, open such lands for location and sale under Part II, or for sale under Part I to actual settlers; and the pine trees shall thereafter be included in any location or sale under Part II, or sale under Part I, and the letters patent shall be issued accordingly.

Rights of settler.

(2) A locatee or purchaser shall not be entitled to cut or dispose of the pine trees except for building and fencing,

and in the course of actual clearing, until he has been six months in residence and has built a house of the dimensions of sixteen by twenty feet, and has six acres cleared and under crop.

(3) The rights of locatees and purchasers shall be subject to the rights of licensees to cut pine timber under licenses in force when the land is opened up for location or sale under this section. R.S.O. 1927, c. 35, s. 51.

**52.**—(1) Upon the application of the purchaser of land in territory open for sale under Part I, or of a locatee or purchaser of land in territory to which section 51 does not apply, open for location and sale under Part II, and not under timber license, or of any one deriving title under him, if it appears to the Minister that the land is not chiefly valuable for its pine trees, but is agricultural land and that the applicant is in actual residence on the land with substantial improvement, the Minister may direct that the pine trees be included in the location or sale, and the letters patent shall be issued accordingly.

(2) If the letters patent have been issued, the Minister may direct the issue of letters patent, granting such pine trees to the then owner of the land. R.S.O. 1927, c. 35, s. 52.

**53.** Upon the application of the locatee or purchaser of land in territory open for location and sale under Part II who has obtained letters patent for the land or of any person deriving title under him, the Minister if satisfied that the land is not under timber license and has not more than forty thousand feet, board measure, of pine timber on it, may make an order releasing and discharging the land from the reservation of the pine timber thereon, and the order, or a certified copy of it, shall be registered in the proper registry division or land titles office, and shall have the same effect as if the letters patent had not contained or been subject to any reservation of the pine trees. R.S.O. 1927, c. 35, s. 53.

**54.** Where a township or part of a township is open for settlement under Part I or Part II the Lieutenant-Governor in Council may direct with regard to any part of the township or any particular lots therein located or sold after the date of the Order-in-Council that the mines and minerals shall be reserved to the Crown, and in the absence of any such direction the mines and minerals shall pass to the patentee when the land is patented. R.S.O. 1927, c. 35, s. 54.

Mines and minerals on certain lands to be deemed to have passed to patentee.

**55.**—(1) In the case of land patented before the 6th day of May, 1913, the mines and minerals therein shall be deemed to have passed to the patentee by the letters patent, and every reservation thereof contained in the letters patent or by statute shall be void. R.S.O. 1927, c. 35, s. 55 (1); 1928, c. 9, s. 3.

(2) In the case of lands patented after the said date mines and minerals shall pass to the patentee unless expressly reserved by the letters patent. R.S.O. 1927, c. 35, s. 55 (2).

Reservation of minerals, when not to apply.

Rev. Stat., c. 47.

**56.** Section 55 shall not apply where a mining claim has been staked out and recorded by or has been leased or sold to any person other than the locatee or purchaser of the land or a person deriving title under him under *The Mining Act* or any Mining Act previously in force except where the rights of the holder of the mining claim have been abandoned, forfeited or cancelled, or otherwise shall have ceased, but the said section shall apply so as to release the rights of the Crown where the locatee or purchaser or any person deriving title under him is the holder or owner of the mining claim or the rights of any other person being the holder of the mining claim have been abandoned, forfeited or cancelled or otherwise have ceased. R.S.O. 1927, c. 35, s. 56.

Certificate as to extinguishment of rights, etc.

Rev. Stat., c. 47.

**57.** Where the mines and minerals upon lands affected by section 55 and by section 56 were at the time of the enactment of section 55 the property of the Crown and no mining claim on such lands has been staked out and recorded by or leased or sold to any person other than the locatee or purchaser of the land, or a person deriving title under him under *The Mining Act* or any other Mining Act then or previously in force or where such mining claim has been so staked out, recorded, leased or sold but the rights of the holder of such mining claim have been abandoned, forfeited, cancelled or otherwise have ceased, the Minister of Mines, or the Deputy Minister of Mines, may issue a certificate in accordance with the facts and such certificate may be registered in any registry office in Ontario. R.S.O. 1927, c. 35, s. 57.

Ores, etc., to be treated in Canada.

**58.**—(1) All lands patented or otherwise disposed of under this Act after 12th April, 1917, shall be subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined within the Dominion of Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the patent or other form of title of such lands shall be null and void, and the said lands shall revert to and become vested in His Majesty, his heirs and successors freed and discharged of any interest or claim of any other person or persons whomsoever.



(2) The Lieutenant-Governor in Council is hereby authorized to exempt any lands from the operation of this section for such period of time as to him may seem proper. R.S.O. 1927, c. 35, s. 58.

Power to exempt lands.

**59.**—(1) In all sales, free grant locations, leases, licenses of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, there shall be reserved to the Crown the right to construct on the land any colonization or other road or any road in lieu of or partly deviating from an allowance for road without making compensation therefor, and such right whether or not it is expressly reserved from the sale, location, lease, license of occupation, mining claim or other disposition of the land or by the letters patent when issued shall be deemed to be so reserved.

Right to make roads to be reserved in sales, etc.

(2) In all sales, free grant locations, leases, licenses of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, where the letters patent have been issued containing a reservation of five per centum of the area for roads, wood, gravel and other materials required for the construction or improvement of any colonization or other road or of any road in lieu of or partly deviating from an allowance for road, may be taken from the land without making compensation therefor or for the injury thereby done to the land from which they are taken, and where the letters patent have been issued without a reservation being made of five per centum of the area for roads, wood, gravel and other materials required for the purposes hereinbefore mentioned may be taken from the land, but compensation shall be paid as provided by *The Public Works Act*.

Right to take wood, gravel and other materials for roads.

In certain cases without making compensation.

In other cases making compensation.

Rev. Stat., c. 54.

(3) The rights mentioned in subsections 1 and 2 may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown. R.S.O. 1927, c. 35, s. 59.

Minister or person authorized by him may exercise rights.

**60.** In all sales, free grant locations, leases, licenses of occupation, mining claims and other dispositions of public lands, or mining lands or mining rights the Minister may reserve from sale any water power or privilege, and such area of land in connection therewith as he may deem necessary, for the erection of buildings and plant, and the development and utilization of the power, together with the right to lay out and use such roads as may be necessary for passage to and from such water power or privilege and land, and may, with the approval of the Lieutenant-Governor in Council, fix the terms and conditions upon which such water power or privilege and land may be sold or leased and developed. R.S.O. 1927, c. 35, s. 60.

Reservation of water power on public lands.



## CHAPTER 34.

## The Northern Development Act.

Interpre-  
tation.**1.** In this Act,—“Com-  
missioner.”

- (a) “Commissioner” shall mean a Commissioner appointed by the Lieutenant-Governor in Council under the authority of this Act;

“Depart-  
ment.”

- (b) “Department” shall mean the Department of Northern Development;

“Deputy  
Minister.”

- (c) “Deputy Minister” shall mean the Deputy Minister of Northern Development;

“Fund.”

- (d) “Fund” shall mean the Northern Development Fund;

“Minister.”

- (e) “Minister” shall mean that member of the Executive Council to whom for the time being the administration of this Act is assigned;

“Regula-  
tions.”

- (f) “Regulations” shall mean regulations made under the authority of this Act;

“Road.”

- (g) “Road” shall mean a common or public highway and shall include a street or a bridge forming part of a highway or on or over which a highway passes. R.S.O. 1927, c. 36, s. 1.

1917, c. 13  
and 1919, c.  
15, not  
affected.

- 2.** Nothing in this Act contained shall be taken to restrict or affect in any manner the provisions of *The Returned Soldiers' and Sailors' Land Settlement Act or The Returned Soldiers' and Sailors' Land Settlement Act, 1919*. R.S.O. 1927, c. 36, s. 2.

## DEPARTMENT AND ADMINISTRATION

Department..

- 3.** There shall be a department of the Civil Government of Ontario which shall be known as the Department of Northern Development and shall be presided over by the Minister, and the Department shall be charged with the administration of this Act and of *The Returned Soldiers' and Sailors' Land Settlement Acts and The Colonization Roads Act*. R.S.O. 1927, c. 36, s. 3.

1917, c. 13.  
1919, c. 15.  
Rev. Stat.,  
c. 35.

4. The Lieutenant-Governor in Council may from time to time appoint a Deputy Minister and such commissioners, officers, clerks and servants as may be deemed necessary or expedient for carrying out the purposes and objects of this Act. R.S.O. 1927, c. 36, s. 4. Deputy Minister and staff.

5. The Deputy Minister and any commissioner so appointed shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council of Ontario the oath of allegiance and solemn declaration provided for in section 15 of *The Public Service Act*. R.S.O. 1927, c. 36, s. 5. Oath of office. Rev. Stat., c. 15.

6. Subject to the provisions of *The Public Service Act*, the Lieutenant-Governor in Council may from time to time fix the salaries, allowances and expenses to be paid to the Deputy Minister, commissioners, officers, clerks and servants appointed under this Act. R.S.O. 1927, c. 36, s. 6. Salaries and remuneration. Rev. Stat., c. 15.

7. Every Order-in-Council made under this Act shall be laid before the Assembly forthwith if the Assembly is then in session and if the Assembly is not then in session, then within the first fifteen days after the opening of the next session thereafter. R.S.O. 1927, c. 36, s. 7. Orders-in-Council to be laid before Assembly.

#### THE NORTHERN DEVELOPMENT FUND.

8. There shall be an account opened in the books of the Treasurer of Ontario to be known as the Northern Development Fund Account and all moneys heretofore appropriated and remaining unexpended, and any sums hereafter appropriated for the purposes of this Act or *The Returned Soldiers' and Sailors' Land Settlement Acts* shall be placed to the credit of the said account and shall form the Northern Development Fund. R.S.O. 1927, c. 36, s. 8. Account of Fund. 1917, c. 13. 1919, c. 15.

9. The expenses of the administration of this Act, including the salaries or other remunerations of the Deputy Minister, commissioners, officers, clerks and servants of the Department and their proper travelling expenses and allowances and any sums required for the construction, maintenance or operation of works and any grants or loans or other expenditures which may be authorized under this Act shall be payable out of the Consolidated Revenue Fund in such manner, to such persons and at such times as the Lieutenant-Governor in Council may direct and shall be chargeable to the Fund. R.S.O. 1927, c. 36, s. 9. Expenses of administration chargeable to Fund.

Accounts  
and audit.  
Rev. Stat.,  
c. 24.

**10.** All sums of money paid out under this Act shall be duly accounted for to His Majesty and the provisions of *The Audit Act*, so far as applicable, shall apply to all expenditures made under this Act. R.S.O. 1927, c. 36, s. 10.

WORKS WHICH MAY BE UNDERTAKEN.

What may  
be under-  
taken by  
Department..

**11.** Subject to the regulations the Department may,—

- (a) construct works and improvements;
- (b) make roads;
- (c) improve and develop water powers;
- (d) take such measures as the Minister may think proper for the advancement of settlement and colonization, the assistance of settlers, the improvement of means of transportation and communication, and the encouragement and assistance of agriculture and reforestation in the northern and north-western districts;
- (e) make loans to assist in the operation of creameries, cheese factories, grist mills and other like associations;
- (f) purchase seed grains and other seeds, seed potatoes and agricultural implements for sale or distribution to settlers and farmers;
- (g) purchase, transport, use or operate for the benefit of settlers or for the development of any territory, machinery for well-drilling or other like purposes;
- (h) purchase cattle or other live stock for sale or distribution to settlers and farmers and make provision for the feeding, care and distribution of the same;
- (i) purchase lands, easements, rights-of-way, buildings and structures deemed necessary;
- (j) erect and equip schools and other public buildings and pay the salaries and expenses of persons employed in connection therewith; and
- (k) generally undertake such work and expenditures in the northern and northwestern districts of Ontario for which no other provision is made as may

be authorized by the Lieutenant-Governor in Council upon the recommendation of the Minister.  
R.S.O. 1927, c. 36, s. 11.

**12.**—(1) The Minister may, for and in the name of his Majesty, purchase or acquire, and, subject as hereinafter mentioned, may himself or by his engineers, superintendents, agents, workmen or servants, for any purpose relative to the use, construction, maintenance or repair of a road, without the consent of the owner thereof enter upon, survey, take and expropriate any land which the Minister may deem necessary for the use, construction, maintenance or repair of a road, or for procuring stone, gravel, timber, or other material for use in making, maintaining or repairing a road, and for the purposes of the powers conferred by this section the Minister shall have and may exercise the like powers and shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works and Highways enters upon or takes land or property for the use of Ontario, and the provisions of that Act shall apply, *mutatis mutandis*.

Powers of Minister as to taking lands for roads.

Rev. Stat., c. 54.

(2) Upon land purchased, expropriated or otherwise acquired under subsection 1, the Minister by himself, or by his engineers, superintendents, agents, workmen or servants may lay out, construct, maintain or repair such road or roads as shall by the Minister be deemed necessary or expedient.  
R.S.O. 1927, c. 36, s. 12.

Power to construct roads.

**13.**—(1) Where in any municipality a road is acquired, opened, constructed, maintained or repaired under the provisions of this Act, the Minister may determine and order that the corporation of such municipality shall pay a proportion of the cost of the construction, maintenance or repair of the road, and may order and direct the proportion to be paid or borne by such municipality, and such order of the Minister shall not be subject to appeal or be open to review, except by the Minister.

Municipality's contribution to cost of work.

(2) For the purpose of enforcing the payment of any sum so directed to be paid by a municipality, with interest and costs, the Minister and any officer appointed by him for that purpose, shall have and may exercise the like powers and shall proceed in the manner provided by *The Execution Act* where the sheriff proceeds upon an execution against a municipal corporation, and the provisions of that Act shall apply, *mutatis mutandis*. R.S.O. 1927, c. 36, s. 13.

Enforcing payment of municipality's share.

Rev. Stat., c. 125.

**14.**—(1) By-laws may be passed by the council of any municipality in a judicial district authorizing and approving of any agreement or arrangement with one or more other

Power to pass by-laws approving agreements, etc., in districts.



such municipalities and with the Minister for acquiring, opening, constructing, maintaining or repairing any road, and for the payment of a proportion of the cost thereof, notwithstanding that under such agreement or arrangement such municipality may be liable for a portion of the cost of acquiring, opening, constructing, maintaining or repairing a road outside of the boundaries of such municipality.

Minister  
to be  
party to  
agreement,  
etc.

(2) The Minister shall be a party to any agreement or arrangement made under the provisions of this section and such agreement or arrangement shall not be effective or acted upon until approved by the Minister.

Duration of  
agreement.

(3) The agreement or arrangement referred to in this section may extend over any period not exceeding five years and shall be binding upon the municipality until completed, and any authorizing by-law passed under the provisions of this section shall not be open to question, or be quashed, set aside or declared invalid either wholly or in part at any time after the Minister has approved of such agreement or arrangement. 1934, c. 35, s. 2.

Powers of  
Minister in  
construction  
of work  
in muni-  
cipality.

**15.** The Minister shall have and may exercise within the limits of any municipal corporation along the course of a road laid out, constructed, maintained or repaired under the provisions of subsection 2 of section 12, all the powers which may be exercised by a municipal corporation authorized to lay out, maintain and construct a highway. R.S.O. 1927, c. 36, s. 14.

Compensation where  
workman  
injured or  
killed.

**16.**—(1) Where any workman or servant is injured or killed by accident while employed in any work undertaken under this Act, the like payments for medical or surgical aid, hospital or skilled nursing services, or for compensation for such injury or death, may be made out of the Fund as may be made in any case to which *The Workmen's Compensation Act* applies, and the Treasurer of Ontario shall issue the cheque therefor upon the certificate of the Minister or Deputy Minister and the certificate of the Minister or Deputy Minister shall be conclusive as to the facts stated therein and as to the right of the person named in the certificate to receive the amount certified to, and such certificate shall not be subject to any further revision or audit.

Rev. Stat.,  
c. 204.

Fixing  
amount  
of compen-  
sation.

(2) The amount which may be paid under subsection 1 to any person, upon the request of the Minister, shall be fixed and determined by the Workmen's Compensation Board. R.S.O. 1927, c. 36, s. 15.



## LOANS TO SETTLERS.

**17.** Loans of money may be made to settlers by a commissioner appointed under this Act to such an amount in the whole as the Lieutenant-Governor in Council may from time to time determine. R.S.O. 1927, c. 36, s. 16.

Loans to settlers.

**18.** Every such loan shall be subject to the regulations and shall be made upon such terms and conditions as the commissioner may think proper, but the amount advanced to any one settler shall not exceed \$500. R.S.O. 1927, c. 36, s. 17.

Terms and conditions of loan.

**19.**—(1) The Lieutenant-Governor in Council may, from time to time direct that advances be made to the commissioner out of the Fund upon the requisition of the commissioner, countersigned by the Minister or Deputy Minister, and all such advances shall be duly accounted for in the manner provided by *The Audit Act*.

Advances for purpose of making loans.

Rev. Stat., c. 24.

(2) The commissioner and all other officers employed in carrying out the provisions of this Act, shall give such security for the due accounting for all moneys coming to their hands as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 36, s. 18.

Security to be given by officers.

**20.** A report of all loans made by him during the preceding fiscal year, and all the amounts received in repayment of any such loans, shall be made by the commissioner to the Lieutenant-Governor on or before the 1st day of January in each year, and shall be laid before the Assembly at the next session of the Legislature held thereafter. R.S.O. 1927, c. 36, s. 19.

Report on loans.

## LIENS FOR LOANS AND SUPPLIES.

**21.**—(1) Where money is owing in respect of a loan made by the commissioner under the authority of this Act, it shall be sufficient for the purposes of *The Public Lands Act*, *The Registry Act* and *The Land Titles Act*, that the commissioner shall give notice in writing under his hand and seal that there is payable to the Crown by the settler any sum on account of such loan.

Notice of lien.

Rev. Stat., cc. 33, 170, 174.

(2) Where seed grain or other seeds, seed potatoes, hay or other feed, cattle, farm implements or other machinery have been distributed or supplied to, or wells have been drilled, or other work done for settlers, it shall be sufficient for the purposes of *The Public Lands Act*, *The Registry Act* and *The Land Titles Act* that the Minister or Deputy Minister shall

Notice of lien.

Rev. Stat., cc. 33, 170, 174.

give a like notice under his hand and seal that there is due to the Crown from the settler any sum on account of anything so supplied or done.

Particulars  
to be stated  
in notice.

(3) The notice to be given by the commissioner or by the Minister or Deputy Minister, as the case may be, shall state the amount of the loan or the amount due in respect of the thing supplied or the work done and shall describe the lands to be chargeable and may be registered against the lands, in the case of unpatented lands in the Department of Lands and Forests and in the case of patented lands in the proper registry or land titles office and upon registration the notice,

(a) in the case of unpatented lands, shall constitute a first lien and charge upon the lands described therein subject only to any payments which may be due to the Crown on account of purchase money or for timber dues, insurance fees, fire charges or otherwise, whether the person from whom the amount is due is the owner or purchaser or locatee or merely an occupant of the land; and

(b) in the case of patented lands, shall constitute a lien or charge upon such land having priority, subject to subsection 4, according to the general law of Ontario.

Title of  
purchaser to  
be subject  
to lien.

(4) In case any land so charged is sold for taxes, the title of the purchaser at the sale shall be subject to such lien and charge.

Discharge  
of lien.

(5) Upon payment or other satisfaction of any such loan or charge, the commissioner or Minister or Deputy Minister, as the case may be, may give a certificate in writing under his hand and seal that any sum due to the Crown has been paid or accounted for and that the lands, describing them, are discharged from any lien or charge created under this Act.

Registra-  
tion.

(6) The certificate may be registered, in the case of unpatented lands, in the Department of Lands and Forests, and in the case of patented lands, in the proper registry or land titles office as the case may be and upon registration the lien or charge created under this Act shall be discharged and the lands described in the certificate shall be free therefrom.

Partial  
discharge.

(7) Upon payment or other satisfaction of a portion of the moneys secured by any lien or charge registered under this Act, the commissioner or Minister or Deputy Minister as the case may be, may by a certificate in writing under his hand

and seal, describing the lands so discharged, discharge part of the land comprised in such lien or charge if satisfied that the security remaining is ample for the balance remaining unpaid.

(8) The certificate mentioned in subsection 7 may be registered in like manner as the original notice and upon registration thereof the lands described in the certificate shall be free from such lien or charge. Registration of partial discharge.

(9) The notice of lien and certificate of discharge shall be entered and registered by the registrar or master of titles without charge. No charge for registration. R.S.O. 1927, c. 36, s. 20.

(10) The Lieutenant-Governor in Council may write off or reduce the amount of either principal or interest, or both principal and interest charged against any lands under the provisions of this section where such lands have been abandoned, surrendered or vacated by the settler or where the location or sale of such lands has been cancelled by the Crown, and by virtue of which abandonment, surrender, vacating or cancellation, such lands had become available to the Crown for resale, relocation or other disposal, and the Lieutenant-Governor in Council may authorize the commissioner or Minister or Deputy Minister as the case may be to give a certificate in the manner provided in subsections 5 and 7, which certificate when given may be registered and will have the effect provided in subsections 6 and 8. Writing off or reducing amounts owing on charges, and discharge of lands in such cases. 1933, c. 40, s. 2.

**22.**—(1) Where notice of a lien in respect of a loan made by the commissioner has been heretofore registered in the Department of Lands and Forests or in the proper registry or land titles office under *The Northern and Northwestern Ontario Development Acts*, or any other Act for which this Act is substituted or is hereafter registered under this Act, the commissioner shall be deemed to have and to have had from the date of the registration of such notice and he may exercise and enforce all rights, privileges, powers and remedies in the name of the Crown in the same manner and to the same extent as if the settler had executed and there had been registered against the land named in the notice of lien, a mortgage to the Crown under *The Mortgages Act*. Powers as to liens heretofore registered. R.S.O. 1927, c. 36, Rev. Stat., c. 155. s. 21.

(2) The commissioner may assign the loan debt or charge and convey the property charged, and the person to whom any such assignment is made shall have, and in his own name may exercise and enforce all rights, privileges, powers Assignment of charge for loan debt.

Rev. Stat.,  
c. 155.

and remedies in the same manner and to the same extent as if the said lien or charge were a mortgage made under *The Mortgages Act* and assigned to such person. 1929, c. 12, s. 2.

#### REGULATIONS.

Regulations. **23.** The Lieutenant-Governor in Council may make regulations,—

- (a) fixing the amounts from time to time chargeable to the Fund to be applied to any of the objects of this Act;
  - (b) prescribing the terms and conditions upon which expenditures may be made under this Act;
  - (c) prescribing the terms and conditions upon which well drilling or other services may be done for settlers and seed grain and other seeds, or hay and other feed, or cattle or other live stock, or farm implements or machinery may be distributed or supplied to settlers or farmers and as to the feeding and care of the live stock so supplied;
  - (d) fixing the terms upon which loans or advances may be made under this Act and as to repayment, security, inspection and rate of interest to be charged and the forms of notices or other documents required;
  - (e) for the appointment of officers, clerks, workmen and servants in the department and defining the conditions of employment and fixing the salaries and remuneration of such officers, clerks, workmen and servants;
  - (f) fixing the amount of security to be given by any officer or other person receiving money to be accounted for under this Act;
  - (g) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 36, s. 22.
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## CHAPTER 35.

## The Colonization Roads Act.

## 1. In this Act,—

Interpreta-  
tion.

(a) "Department" shall mean The Department of "Depart-  
Northern Development; ment."

(b) "Minister" shall mean that member of the Execu- "Minister."  
tive Council to whom for the time being, the ad-  
ministration of this Act is assigned. 1928, c. 13, s. 2.

2. Grants may be made of such sums as may be appro- Grants for  
priated for that purpose from time to time by this Legisla- colonization  
ture for the construction or repair or to aid in the construc- roads.  
tion or repair of such colonization roads as may be deemed  
necessary in any unsurveyed or unorganized portions of On-  
tario, or in organized townships where roads are required to  
give access through unoccupied or sparsely occupied districts,  
or through districts unfit for cultivation or settlement, and  
such other roads as this Legislature upon the recommenda-  
tion of the Minister deems necessary for the proper settle-  
ment and development of that portion of Ontario referred to  
in section 3. R.S.O. 1927, c. 37, s. 2.

3.—(1) The council of any municipality comprising one By-laws  
or more townships or a portion of a township or portions of designating  
one or more townships in any provisional judicial district or highways  
in the Provisional County of Haliburton, and the council of for improve-  
any township or union of townships in that portion of On-  
tario in which money is being expended in the building of  
colonization roads, may prepare and approve a by-law or  
by-laws designating any highway or highways in the muni-  
cipality as highways to be improved under this Act, stating  
the amount to be expended therefor, but such by-law shall  
not be finally passed until the same has been submitted to  
the Minister who may approve, alter or modify the same.

(2) The council may finally pass any by-law which has Confirma-  
been so submitted to the Minister and approved, altered or tion.  
modified by him, and it shall not be necessary to introduce  
and resubmit any by-law so modified or altered.



By-laws  
validated.

(3) A by-law passed with the approval of the Minister shall not be open to question in any court upon any ground whatever. R.S.O. 1927, c. 37, s. 3.

Width of  
roads.

4. No road shall be constructed under this Act of a less width than sixty-six feet. R.S.O. 1927, c. 37, s. 4.

Powers of  
municipality  
under Act.

5. Every municipal corporation which avails itself of the provisions of this Act shall have and may exercise all the powers necessary for the carrying out of the work undertaken. R.S.O. 1927, c. 37, s. 5.

Amount of  
grant.

6. Upon the report and recommendation of the Minister the Lieutenant-Governor in Council may direct that any sum being not more than two-thirds of the estimated cost of the work upon the highways designated by such by-law as approved or modified by the Minister may be paid to the municipality out of any appropriation made by this Legislature for that purpose. R.S.O. 1927, c. 37, s. 6.

Supervision  
and in-  
spection.

7. Any work undertaken under this Act shall be carried out under the supervision of an engineer or inspector approved by the Minister for that purpose, and shall conform to the regulations prescribed by the Department of Northern Development. R.S.O. 1927, c. 37, s. 7; 1928, c. 13, s. 3.

Payment of  
grant.

8. Upon the completion of any work of road improvement in pursuance of a by-law passed in accordance with section 3 or at any time during the progress of such work, the corporation of the municipality undertaking such work may submit to the Minister a statement setting forth the cost of such work to date together with the declaration of the treasurer of such municipality that such statement is correct and also the report of the inspector, approved by the Minister, that such work is in accordance with the regulations of the Department, and on receipt of such statement and certificate by the Treasurer of Ontario, certified and approved by the proper officer of the Department, the Lieutenant-Governor in Council may direct the payment to the corporation of such municipality out of any money appropriated for such purpose of a sum not more than two-thirds of the amount of such cost. R.S.O. 1927, c. 37, s. 8.

Right of  
municipality  
to contribute  
labour in  
lieu of  
money.

9. The proportion of the cost to be borne by any township or union of townships receiving aid under this Act may be paid in money, or may, with the approval of the Minister, be contributed in labour or partly in money and partly in labour estimated at the actual cost of such labour to the municipality, but all such work shall be done under the con-

trol and to the satisfaction of the inspector approved by the Minister and shall be certified by him. R.S.O. 1927, c. 37, s. 9.

**10.**—(1) The council of any municipality mentioned in section 3 may submit to the Minister a proposed by-law for the purchase of road-making machinery, appliances and equipment and material for road-making or road improvement, or any of them, and the Minister may by writing under his hand approve such by-law or may approve of the same subject to such amendments or alterations as he may deem proper.

By-laws for purchase of machinery or material.

(2) The council may pass the by-law as so approved, or as amended or altered in accordance with the directions of the Minister, and may expend the amount stated therein for the purposes aforesaid. R.S.O. 1927, c. 37, s. 10 (1, 2).

By-law, when council may pass.

(3) Upon proof to the satisfaction of the Minister that any amount has been properly expended under the by-law, the Minister may direct the payment to the corporation of the municipality of a sum not exceeding fifty per centum of the amount so expended, and the sum named in the direction of the Minister shall be payable out of any moneys appropriated by the Legislature for the purposes of this section. R.S.O. 1927, c. 37, s. 10 (3); 1931, c. 12, s. 2.

Aid from province.

(4) The corporation of any two or more of the municipalities mentioned in section 3 may enter into an agreement for the purchase of road-making machinery, appliances and equipment and materials for road-making or road improvement or any of them for the common use of such municipalities, and may pass by-laws for that purpose and such by-laws and agreements may be submitted to the Minister and may be approved, amended or altered and dealt with as provided in subsections 1 and 2 and the Minister may direct the payment to the corporation or to any one of them of the aid provided for in subsection 3 and the same shall be payable accordingly. R.S.O. 1927, c. 37, s. 10 (4).

Agreements between two or more corporations.

**11.** The council of any township municipality in which colonization roads money is being expended under a by-law of the municipality may by by-law appoint a road overseer or foreman, who, subject to the direction of the council, shall supervise all work and expenditure under such first mentioned by-law on the roads included therein or under any by-law of the municipality authorizing work and expenditure on the said roads, and upon the report and recom-

Appointment of road overseer or foreman and aid in payment of salary.

mentation of the Minister, the Lieutenant-Governor in Council may direct that out of any moneys appropriated for the purposes of this Act, fifty per centum of the salary paid yearly to such overseer or foreman by the municipality shall be reimbursed to the municipality, but the amount so paid shall not in any one year exceed the sum of \$400. R.S.O. 1927, c. 37, s. 11; 1928, c. 13, s. 4.

Payment  
of grants.

**12.** The money required to meet any expenditure under this Act shall be paid by the Treasurer of Ontario to the persons entitled thereto upon the recommendation of the Minister out of such money as may be from time to time appropriated by this Legislature for that purpose. R.S.O. 1927, c. 37, s. 12.

Time for  
presenting  
petitions.

**13.** All petitions or by-laws for work under this Act, the cost of which is to be paid in whole or in part by the Province of Ontario, shall be submitted to the Minister not later than ten days after the commencement of the session of the Assembly at which the money may be voted. R.S.O. 1927, c. 37, s. 13.

Disqualifica-  
tion from  
service as  
inspector,  
etc.

**14.** No member of the council of any municipality receiving grants of money for road purposes from the Province of Ontario shall be appointed or act as inspector, foreman or in any other capacity upon the road work carried out under section 3; and any such member who is appointed or who acts or is employed in contravention of this section shall be disqualified from sitting or voting in the council of which he was a member at the time of his appointment or employment. R.S.O. 1927, c. 37, s. 14.

When  
Rev. Stat.,  
c. 56 not  
to apply.

**15.** *The Highway Improvement Act* shall not apply to any municipality in which money is expended under this Act. R.S.O. 1927, c. 37, s. 15.

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## CHAPTER 36.

## The Crown Timber Act.

## 1. In this Act,—

"Interpre-  
tation."

(a) "Department" shall mean Department of Lands and Forests; "Depart-  
ment."

(b) "Minister" shall mean Minister of Lands and Forests; "Minister."

(c) "Public Lands" shall include lands heretofore de- "Public  
signated as Crown lands, school lands and clergy Lands."  
lands. R.S.O. 1927, c. 38, s. 1.

## LICENSES TO CUT TIMBER ON PUBLIC LANDS.

2.—(1) The Minister, or any officer or agent authorized by him to do so, may grant licenses to cut timber on the ungranted public lands, and timber on patented lands where the timber on them remains the property of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be prescribed by the Lieutenant-Governor in Council. Power to  
grant  
licenses to  
cut timber  
on public  
lands.

(2) Notice of any Order-in-Council made under this section shall be published in the *Ontario Gazette*. Orders-in-  
Council to  
be pub-  
lished.

(3) No such license shall be granted for a longer period than twelve months from its date and if, in consequence of incorrectness of survey, or other error or from any other cause, a license is found to comprise lands included in a license of an earlier date, the license last granted shall be void in so far as it interferes with the one previously granted, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S.O. 1927, c. 38, s. 2. Period of  
license.  
Conflicting  
licenses.

3.—(1) The license shall describe the land upon which the timber may be cut, and shall confer for the time being on the licensee the right to take and keep exclusive possession of the land so described, subject to such conditions regulations and restrictions as may be prescribed. Operation  
of license.



Effect of  
license.

(2) The license shall vest in the holder all rights of property in all trees, timber and lumber cut within the limits specified in the license during the term thereof, whether the same are cut by authority of the holder of the license, or by any other person, with or without his consent.

Right of  
licensee.

(3) The license shall entitle the holder to seize such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to maintain an action against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment and to recover damages, if any.

Continuing  
proceedings  
after expiry  
of license.

(4) All proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired.

Rights of  
locatees and  
purchasers.

(5) The rights conferred on the licensee under this section and on the grantee under subsection 2 of section 5, shall be subject to the rights to which the locatee or purchaser of the land and those claiming under him, are entitled under *The Public Lands Act*. R.S.O. 1927, c. 38, s. 3.

Rev. Stat.,  
c. 33.

Commence-  
ment of term  
of license.

(6) Subject to any rights which may have accrued to the Crown prior to the issue of the license, every renewed license shall be deemed to have taken effect from the 1st day of May of the season for which it was granted. 1928, c. 14, s. 2.

Renewal  
of licenses.

(7) If the licensee is not in arrears to the Crown on account of dues, ground rent, fire protection charges or other charges, the Minister or any officer or agent authorized by him to do so, may renew the license or renewed license of such licensee for a further period of twelve months, and such renewal may be effected by attaching to the license or renewed license an endorsement providing for such renewal and such endorsement shall have indicated thereon any change which may have been made in the terms and conditions of the license. 1934, c. 8, s. 2.

"Manufacturing  
condition."

4. All sales of pine timber limits, and all licenses or permits to cut pine timber on such limits shall be made, issued or granted subject to the conditions set out in the first regulation in Schedule A, and it shall be sufficient if such conditions are referred to as "the manufacturing condition" in all notices, licenses, permits, agreements or other writings. R.S.O. 1927, c. 38, s. 4.



5.—(1) All sales of timber limits, which confer the right to cut and remove spruce or other soft wood, trees or timber, other than pine, suitable for manufacturing pulp or paper, and all licenses or permits to cut the same on the limits so sold, and all agreements entered into or other authority conferred by the Minister by virtue of which such wood, trees or timber may be cut upon public lands, shall be made, issued or granted subject to the conditions set out in the first regulation in Schedule B, and it shall be sufficient if such conditions are referred to as “the manufacturing conditions,” in all notices, licenses, permits, agreements or other writings.

Sales of timber limits and licenses issued to be subject to manufacturing condition.

(2) The Minister may with the approval of the Lieutenant-Governor in Council grant rights to cut pulpwood upon any of the lands mentioned in section 2 for such periods and for such consideration and subject to such conditions, regulations and restrictions as the Minister may deem proper but every such grant shall be subject to “the manufacturing condition” mentioned in subsection 1.

Minister may grant rights to cut pulpwood.

(3) All such grants heretofore made shall be valid and binding as if this section had been in force at the time of the making of the grant. R.S.O. 1927, c. 38, s. 5.

Grants heretofore made validated.

6. All sales of timber limits which confer the right to cut and remove birch, beech, maple, elm, ash, basswood or oak trees, and all licenses or contracts, agreements or other instruments under which exists the right to cut the same on Crown lands or on lands where such trees remain the property of the Crown, shall be issued, made or granted subject to the conditions set out in the first regulation in Schedule C, and it shall be sufficient if such conditions are referred to as “the manufacturing conditions” in all notices, licenses, contracts, agreements or other instruments. R.S.O. 1927, c. 38, s. 6.

Manufacturing conditions as to hardwood.

7. The regulations contained in Schedules A, B and C shall respectively apply to all licenses, contracts, agreements or other instruments. R.S.O. 1927, c. 38, s. 7.

Regulations.

8. The Lieutenant-Governor in Council may make any further or additional regulations which he may deem necessary to enable the Minister to carry into effect the object and intent of the regulations contained in Schedules A, B and C. R.S.O. 1927, c. 38, s. 8.

Further regulations.

9. The Lieutenant-Governor in Council may suspend the operation of “the manufacturing condition” for such period as to him may seem proper, and as to any district or districts which he may define so as to permit the exportation of pulp-

Minister authorized to suspend “manufacturing condition” as to pulpwood.

wood during such period, and from such district or districts. R.S.O. 1927, c. 38, s. 9.

Suspension  
of "manu-  
facturing  
condition"  
as to poplar.

**10.** The Minister may, so far as the same affects poplar trees and timber and subject to such terms and conditions as to him may seem meet, suspend the 'operation of the "manufacturing condition" for such period as to him may seem proper and as to any district or districts which he may define, so as to permit the exportation of poplar pulpwood during such period and from such district or districts. 1929, c. 23, s. 2, *part*.

Grants of  
timber  
licenses  
prior to  
completion  
of settle-  
ment duties.  
Rev. Stat.,  
c. 33.

**11.** The Minister at any time before the completion of the settlement duties and the filing in the Department of proof of such completion may grant licenses covering or including lands sold by the Crown under *The Public Lands Act*, and the timber thereon. R.S.O. 1927, c. 38, s. 10.

Validity of  
such licenses.

**12.** All such licenses shall be good, valid and effectual though issued or renewed after the expiry of three years from the date of the sale of such lands. R.S.O. 1927, c. 38, s. 11.

Authority  
to confirm,  
vary or can-  
cel timber  
cutting.

**13.** The Minister, where he deems it in the public interest so to do, may confirm, vary or cancel any timber cutting privileges heretofore granted on timber areas without public competition as required by the Crown Timber Regulations. R.S.O. 1927, c. 38, s. 12.

Power as  
to time  
limit for  
cutting.

**14.** Wherever a timber limit or area is offered for sale by public competition the Minister may stipulate a time limit in which the timber is to be cut and removed, subject to the acquiring by the operator of an annual license to cut as required by this Act, and may also, when he deems it in the public interest, extend the time of cutting beyond the time prescribed in the terms and conditions of any sale. R.S.O. 1927, c. 38, s. 13.

Powers of  
Minister as  
to controll-  
ing cutting  
of timber.

**15.**—(1) Notwithstanding anything contained in any general or special Act or in any timber license, lease, concession, agreement or other document under which the right to cut timber is claimed or exercised, the Minister shall have authority to fix the size and kind of trees and timber which may be cut on the unpatented public lands of Ontario, and on patented lands where the trees and timber thereon remain the property of the Crown, and such authority may be exercised in such parts of Ontario and for such times, and on such conditions as the Minister may direct, and any directions so given may in like manner be varied from time to time.

(2) Saving and excepting existing rights provided by section 104 of *The Mining Act* and without extending the scope of subsection 1 hereof, the Minister may exercise the authority and give the directions provided for in subsection 1 with respect to the timber included in any license, lease, concession, agreement or other document heretofore granted, made or entered into or which may hereafter be granted, made or entered into by the Crown.

Authority to apply to all licenses heretofore granted. Rev. Stat., c. 47.

(3) Every corporation, firm or individual who directly, or by any servant, agent or employee cuts or assists in cutting any trees or timber contrary to any directions given under the authority of this section shall incur a penalty of not more than \$100 for each offence and in default of payment of such penalty may be imprisoned for a period not exceeding three months. 1928, c. 15, s. 2, 3 and 4 (1), *amended, see* 1937, c. 72, s. 18.

Penalty for unauthorized cutting.

#### TIMBER ON ROAD ALLOWANCES.

**16.**—(1) Every Government road allowance included in a timber license, granted under section 2, shall be deemed to be ungranted public lands, within the meaning of that section.

Government road allowances included in license to be deemed ungranted lands.

(2) The licensee shall have all the rights in respect of every such road allowance, and the trees, timber and lumber thereon, or cut thereon, as were, or by section 2, might be conferred upon him in respect of any other public lands embraced in such license, and the trees, timber and lumber thereon, or cut thereon, except that he shall not be entitled to take or keep exclusive possession of such road allowance.

Rights of licensee.

(3) No by-law of any municipal council for preserving, selling, or otherwise appropriating or disposing of the timber or trees, or any part thereof, on a Government road allowance included in any license, shall have any force or effect against such license. R.S.O. 1927, c. 38, s. 14.

By-laws not to prevail against license.

**17.**—(1) Where a by-law of the council of a township, organized as a separate municipality, or of any united townships for preserving or selling the timber or trees on the Government road allowances within such township, or united townships included in any license is in force, the corporation of such township or united townships shall be entitled to be paid out of the Consolidated Revenue Fund a sum equal to two per centum of the dues received for or in respect of the timber or saw-logs cut within the township, or united

Township councils entitled to percentage of timber dues.

townships under the authority of the license, while the by-law is in force.

Terms on which councils may obtain the percentage.

(2) Unless the Minister otherwise directs, no corporation shall be entitled to such payment unless a certified copy of the by-law, accompanied by an affidavit of the reeve or clerk, verifying the copy and the date of the passing of the by-law, is filed in the Department within six months from the passing of the by-law.

Rev. Stat., c. 33.

(3) The affidavit may be taken before any person or officer who, under *The Public Lands Act*, is authorized to take affidavits.

Councils to expend percentage on highways.

(4) All money so paid to a corporation shall be expended in the improvement of the highways situate within the township or within that one of the united townships in respect of which such money was paid. R.S.O. 1927, c. 38, s. 15.

#### OBLIGATIONS OF PERSONS OBTAINING LICENSES.

Persons cutting saw-logs to keep record and deliver same to officer of Department.

**18.** Every person who cuts saw-logs on public lands shall cause to be kept in each shanty, camp, or lumbering establishment such records and books as may be prescribed by the Minister, which shall be open at all times to the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Department, and shall at the end of the season be verified by the oath of the person who made the entries therein and be delivered to an officer of the Department authorized to receive the same. R.S.O. 1927, c. 38, s. 16.

Returns to be made by licensees.

**19.—(1)** Every person who obtains a license shall, at the expiration thereof, make to the officer or agent who grants the same, or to the Minister, a return of the number and kind of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber manufactured and carried away under the license; and the return shall be verified by the oath of the holder of the license, or his agent, or by his foreman.

Consequence of failure to make return.

(2) Every person who refuses or neglects to furnish such return or evades or attempts to evade any regulation made by the Lieutenant-Governor in Council, shall be deemed to have cut without authority, and the timber made shall be dealt with accordingly. R.S.O. 1927, c. 38, s. 17.



**20.**—(1) All timber cut under a license shall be liable for the payment of the Crown dues thereon, with interest thereon and expenses so long as and wherever the timber or any part of it may be found in Ontario, whether in the original logs or manufactured into deals, boards or other stuff.

Following timber cut under license until dues are paid.

(2) When any license holder is in default for, or has evaded the payment of dues to the Crown on any part of his timber or saw-logs, such dues, interest and expenses may be levied on any other timber or saw-logs or their manufactured product, belonging to the defaulter, and cut under license, together with the dues thereon, and interest and the expenses incurred.

Dues may be levied on other timber, etc., cut under license.

(3) All officers or agents entrusted with the collection of such dues may follow all such timber, saw-logs or their manufactured product and may seize and detain the same wherever found until the dues, interest and expenses are paid or secured. R.S.O. 1927, c. 38, s. 18.

Timber, etc., may be followed.

**21.** Nothing in this Act shall repeal the provisions of section 4 of chapter 23 of the Consolidated Statutes of Canada, as regards timber removed into the Province of Quebec. R.S.O. 1927, c. 38, s. 19.

Timber removed into Quebec.

**22.** If timber, saw-logs or their manufactured product seized and detained for non-payment of Crown dues remain more than two months in the custody of the officer or agent without the dues, interest and expenses being paid, the Minister, with the previous sanction of the Lieutenant-Governor in Council, may direct a sale of the same to be made after sufficient notice; and the owner shall be entitled to the proceeds of the sale, after deducting the amount of dues, interest and expenses and the costs incurred. R.S.O. 1927, c. 38, s. 20.

Sale of timber seized for non-payment of dues.

**23.** Bonds or promissory notes taken for the Crown dues either before or after the cutting of the timber, as collateral security, or to facilitate collection, shall not affect the lien of the Crown on the timber, but the lien shall subsist until the dues are actually paid. R.S.O. 1927, c. 38, s. 21.

The giving of bonds or notes not to affect the lien on the timber.

#### LIABILITY OF PERSONS CUTTING WITHOUT A LICENSE.

**24.**—(1) A person who without authority cuts or employs or induces any other person to cut, or assist in cutting timber of any kind on public lands, or removes or carries away, or employs or induces or assists any other person to remove, or carry away, merchantable timber of any kind,

Persons cutting timber without license to acquire no rights thereby.



so cut, shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing it for market, or conveying it to or towards market.

Penalty where timber illegally cut cannot be seized.

(2) Where the timber or the saw-logs made have been removed by any person out of the reach of the officers of the Department, or it is otherwise found impossible to seize them such person shall, in addition to the loss of his labour and disbursements, be liable to pay \$15 for each tree other than pine and \$25 for each pine tree cut or caused to be cut and carried away, together with the full value of the timber or logs so cut or caused to be cut and carried away.

Action.

Onus of proof.

(3) Such sum shall be recoverable at the suit and in the name of the Minister, and the burden of proving his authority to cut shall be upon the person sued. R.S.O. 1927, c. 38, s. 22.

Timber alleged to be unlawfully cut may be seized.

**25.**—(1) Where information, satisfactory to the Minister, is received by him or by an officer or agent of the Department that any timber has been cut without authority on public lands, the Minister, officer or agent, may seize or cause to be seized the timber so reported to have been cut without authority, wherever it is found, and may place it under proper custody, until a decision can be had in the matter from competent authority.

Timber so cut and mixed with other timber.

(2) Where the timber has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut without authority, from other timber with which it is mixed, the whole of the timber so mixed shall be deemed to have been cut without authority on public lands, and until satisfactorily separated by the owner shall be liable to seizure and forfeiture accordingly. R.S.O. 1927, c. 38, s. 23.

#### SEIZURE OF TIMBER, ETC.

Seizing officer may command assistance.

**26.** Any officer or person who in the discharge of his duty under this Act seizes timber may in the name of the Crown call in any assistance necessary for securing and protecting it. R.S.O. 1927, c. 38, s. 24.

Onus of proof on claimant or owner.

**27.** Where timber is seized for non-payment of Crown dues, or for any other cause of forfeiture, or where any prosecution is brought for any penalty or forfeiture under this Act, and a question arises whether the dues have been paid, or whether the timber was cut on public lands, the burden

of proving payment, or that the timber was not cut on public lands, as the case may be, shall lie on the owner or claimant of the timber. R.S.O. 1927, c. 38, s. 25.

**28.**—(1) All timber seized shall be forfeited unless the person from whom it was seized, or the owner of it, within one month from the day of seizure, gives notice to the seizing officer or nearest officer or agent of the Department that he claims or intends to claim it. Forfeiture if not claimed within one month.

(2) Failing notice, the officer or agent seizing shall report the circumstances to the Minister, who may order the sale of the timber, by the officer or agent, after a notice posted up at or near the place of seizure at least thirty days before the sale. Sale in default of claim.

(3) The alleged owner or claimant of the timber seized may, upon at least four days' notice to the Minister, apply to a judge of the county or district court of the county or district in which the timber is, for an order for the delivery of the timber to him, and the judge on receiving security by bond of the alleged owner or claimant, with two good and sufficient sureties, to be approved by the Minister, or by the officer or agent, in such sum as shall also be so approved to pay double the value of the timber in case the cause of forfeiture is established, may direct the delivery of such timber to such alleged owner or claimant. Order for delivery of timber to claimant on security being given.

(4) The bond shall be taken in the name of the Minister and shall be delivered to and be kept by him. Delivery of bond.

(5) The judge, upon the application of either party, may at a time and place to be fixed by him, of which the other party shall have at least seven days' notice, try and determine whether such seizure was or was not justifiable, and shall either declare the timber to be forfeited or order it to be released. Trying right of seizure.

(6) If the timber is declared to be forfeited, the same shall be again delivered up to the Minister, or to the officer or agent of the Department, and the Minister may sell and dispose of it and apply the proceeds to the use of the Crown, or may allow the alleged owner or claimant to take the timber, upon the payment of such sum, for the use of the Crown as the Minister shall fix and determine. When seizure upheld.

(7) If the timber seized is forfeited for non-payment of Crown dues, then upon payment to the Minister, by the alleged owner or claimant of the unpaid dues with interest When forfeited.

thereon and the costs and expenses incurred by the Minister, the timber may be surrendered to the alleged owner or claimant, and the bond may be cancelled; otherwise the penalty of the bond shall be enforced and may be recovered. R.S.O. 1927, c. 38, s. 26.

Forfeiture  
of timber  
in case of  
fraud.

**29.** Every person who avails himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. R.S.O. 1927, c. 38, s. 27.

Agreements  
for supplying  
wood or  
timber from  
Crown lands  
for manu-  
facturing of  
pulp,  
etc.

**30.**—(1) Any agreement heretofore or hereafter entered into, by His Majesty or by the Minister with any person for the supply of wood or timber, to be used in the manufacture of pulp or similar material, to be taken from public lands shall not prevent His Majesty or the Minister from selling, leasing, granting or otherwise disposing of any of the wood or timber of the Crown not specifically sold or allotted to such person, or from issuing or granting licenses or permits to other persons to cut and take any wood or timber not so specifically sold or allotted, or from selling, leasing, granting or otherwise disposing of any public lands whether such lands are or are not included in such allotments or agreements or in licenses issued in pursuance of them; and other agreements may be made with any other persons to cut and take wood or timber from the public lands for making pulp or for similar or other purposes, without rendering His Majesty or the Minister liable in damages in case of the exhaustion of the supply of such wood or timber, or of the inability of any person with whom a prior agreement was made to obtain a sufficient supply thereof during the whole period for which the agreement is to run or during which the supply of wood or timber is contemplated by any such agreement, unless in respect of any quantity so specifically sold or actually allotted, or the wood and timber upon specified lands actually allotted, or agreed to be allotted to or for such person and no claim or demand against His Majesty or the Minister shall be made or maintained through or by reason of such sale or other disposition.

Agreement  
not to  
extend  
beyond 21  
years.

(2) No such agreement shall extend beyond the period of twenty-one years from its date. R.S.O. 1927, c. 38, s. 28.

Suspension  
of licenses,  
etc., from  
25th April to  
1st August  
in case of  
danger of  
fire.

**31.**—(1) Whenever it shall be made to appear to the Minister that the operations of any holder or holders of a timber license, pulp concession, permit or other authority to cut timber are or are likely to be so conducted as to endanger any standing timber or cause the destruction thereof by fire, he shall have power by a writing under his hand to

suspend the operation of the license, pulp concession, permit or other authority at any time between the 25th day of April and the 1st day of August for such period as he shall deem expedient, and during such period all cutting of timber by the licensee or other holder, his servants or agents, shall cease unless and until express leave therefor shall be granted by said Minister.

(2) Any violation of this provision shall render the licensee Penalty. or other holder liable to a penalty of not less than \$10 or more than \$100.

(3) The Minister may in his discretion in the case of such Forfeiture of license, etc., in case of disobedience. violation, declare the license, pulp concession, permit or other authority to cut timber to be forfeited, and all rights of the holder or holders thereof shall thereupon immediately determine, but such forfeiture shall in no way affect the liability of the holder or holders for any payments due the Crown in respect of timber cut or otherwise in connection therewith, and the right of the Crown to proceed under this Act to collect the same shall remain as if no such forfeiture had taken place.

(4) The Lieutenant-Governor in Council may make such Regulations. regulations as he may deem necessary or proper to regulate the cutting of timber on Crown lands between the 25th day of April and the 1st day of August, and may prescribe penalties for the contravention of any such regulations. R.S.O. 1927, c. 38, s. 29.

**32.** All Crown dues, interest, costs, expenses and penalties imposed under this Act and all other charges and claims Lien for dues, etc., priority of. of the Crown upon or in connection with trees or timber standing on, or which have been cut on the public lands of Ontario, or upon or in connection with trees or timber standing on, or which have been cut on patented lands where by the terms or conditions of the sale of such lands the timber on such patented lands remained the property of the Crown, shall, in preference and priority to any and all other fees, charges, liens or claims whatsoever, be a lien and charge upon the trees and timber so standing or which have been so cut, and upon all manufactured products of the trees so cut, and also upon the property whether real or personal, movable or immovable, of the person liable to pay such Crown dues, interest, costs, expenses or penalties. 1929, c. 23, s. 2, *part*.

**33.** Where personal property subject to a lien and charge Notice of lien. under section 32, is under seizure or attachment or has been seized by the sheriff, or by a bailiff of any court, or is claimed



by or in possession of any assignee for the benefit of creditors, or liquidator, or trustee, or authorized trustees in bankruptcy, or where such property has been converted into cash and is undistributed, the Minister may give to the sheriff, bailiff, assignee, or liquidator, or trustee, or authorized trustee in bankruptcy, notice of the amount due or owing under such lien and charge, and in such case the sheriff, bailiff, assignee or liquidator, or trustee, or authorized trustee in bankruptcy shall pay the amount of the same to the Treasurer of Ontario in preference to and in priority over any and all other fees, charges, liens or claims whatsoever. 1929, c. 23, s. 2, *part*.

Recovery of penalties.

Rev. Stat., c. 136.

**34.** The penalties imposed by or under the authority of this Act or of the Regulations shall be recoverable under *The Summary Convictions Act*. R.S.O. 1927, c. 38, s. 30.

Act subject to Rev. Stat., c. 38.

**35.** This Act shall be subject to the provisions of *The Provincial Forests Act*. R.S.O. 1927, c. 38, s. 31.

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## SCHEDULE A.

### MANUFACTURING CONDITIONS—PINE TREES.

1. All pine trees which may be cut into logs or otherwise under the authority of a license or permit to cut pine timber shall, except as hereinafter provided, be manufactured into sawn lumber in Canada, that is to say, into boards, deals, joists, lath, shingles or other sawn lumber, or into waney, board or square or other timber; and such condition shall be kept and observed by the holder of any such license or permit, and every other person who cuts or causes to be cut pine trees under the authority thereof, and all pine trees so cut into logs or otherwise, shall be so manufactured in Canada.

2. If any holder of a timber license or permit, or any servant or agent of such holder, or any person acting for him or with his authority or permission, violates or refuses to keep and observe the provisions of the next preceding regulation, the license or permit as to the berth, territory or lot included in the license or permit, on which or on any part of which the pine trees were cut, and in respect of which or any part of which there was a breach of such regulation or a neglect or refusal to observe or keep it, shall be suspended and held in abeyance, and shall not be reissued, nor shall a new license be issued unless and until so directed by the Lieutenant-Governor in Council, and then only upon such terms and conditions as he may prescribe.

3. The Minister, his officers, servants and agents may do all things necessary to prevent a breach of such regulation, and to secure compliance with it, and may, for that purpose take, seize, hold and detain all timber and logs cut on the berth, territory or lot included in the license or permit, which it appears to the Minister it is not the intention of the holder of the license or permit or the owner or person in possession of them to so manufacture or cause to be so manufactured in Canada, or to dispose of to others who will cause them to be so manufactured in



Canada until security is given to His Majesty satisfactory to the Minister that the regulation will be kept and observed, and that such logs and timber will be so manufactured in Canada; and in the event of the neglect or refusal to give such security within four weeks after notice of the seizure and demand of security by or on behalf of the Minister, the Minister may sell, or cause to be sold, such logs and timber by public auction, after due advertisement, to some person who will give such security to His Majesty as the Minister may require that such logs and timber shall be so manufactured in Canada.

4. The proceeds of such logs and timber shall, after the sale and after deducting all expenses of such seizure and sale, and any sum owing to His Majesty for or in respect of any timber dues, trespass dues, ground rent, or on account of the purchase of any timber or timber berth or land by such holder, owner or person in possession, be paid over to the person entitled to the same.

5. Nothing in the preceding regulations which requires pine logs or timber to be manufactured in Canada, shall apply to logs or timber cut and in use in Canada for any purpose for which logs or timber in the unmanufactured state, are or may be used.

6. These regulations shall not apply to the east half of the township of Aweres, in the District of Algoma, containing  $18\frac{1}{2}$  square miles, nor to 22 square miles in the district of Thunder Bay, composed of berths 2, 3 and 4 of the timber sale of 1890.

R.S.O. 1927, c. 38, Schedule A.

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## SCHEDULE B.

### MANUFACTURING CONDITIONS—SPRUCE, OTHER SOFT WOOD TREES, OR TIMBER (NOT BEING PINE)

1. All spruce or other soft wood, trees or timber, not being pine, suitable for manufacturing pulp or paper, cut under the authority of a license or permit shall, except as hereinafter provided, be manufactured in Canada, that is to say, into merchantable pulp or paper, or into sawn lumber, woodenware, utensils, or other articles of commerce or merchandise as distinguished from the spruce or other timber in its raw or unmanufactured state; and such condition shall be kept and observed by the holder of any such license or permit, and by every person who cuts or causes to be cut any such spruce, soft wood, trees or timber, under the authority thereof, and all such spruce, soft wood, trees or timber, cut into logs or lengths or otherwise, shall be so manufactured in Canada.

2. The cutting of spruce or other soft wood, trees or timber, not being pine, suitable for manufacturing pulp or paper, into cordwood, or other lengths, shall not be deemed to be manufacturing the same within the meaning of this regulation.

3. If any holder of a license or permit, or any servant or agent of such holder, or any person acting for him, or with his authority or permission, violates or refuses to keep and observe the foregoing regulations, the license or permit to cut spruce or other soft wood, trees or timber, not being pine, as to the berth, territory, or lot included in this license or permit on which or any part of which the same was cut, and in respect of which or any part of which there was a breach of such regulations or a neglect or refusal to observe or keep them shall be suspended and held in abeyance, and shall not be reissued, nor shall a new license or permit be issued unless and until so directed by the Lieutenant-Governor in Council, and then only upon such terms and conditions as he may prescribe.

4. The Minister, his officers, servants and agents may do all things necessary to prevent a breach of such regulations and to secure compliance with them, and may for that purpose, take, seize, hold and detain all logs, timber or wood so cut, and which it appears to the Minister it is not the intention of the holder of the license or permit, or the owner or person in possession of them to manufacture, or cause to be so manufactured in Canada, or to dispose of to others who will cause them to be so manufactured in Canada until security is given to His Majesty satisfactory to the Minister that the regulations will be kept and observed, and that such logs, timber or wood will be so manufactured in Canada; and in the event of the neglect or refusal to give such security within four weeks after notice of the seizure and demand of security by or on behalf of the Minister, the Minister may sell or cause to be sold such logs, timber or wood by public auction after due advertisement, to some person who will give such security to His Majesty as the Minister may require that they shall be so manufactured in Canada.

5. The proceeds of such logs, timber or wood shall, after the sale and after deducting all expenses of such seizure and sale, and any sum owing to His Majesty for or in respect of any timber dues, trespass dues, ground rent, or on account of the purchase of any timber or timber berth or limit by such holder, owner, or person in possession, be paid over to the person entitled to the same.

6. Nothing in the preceding regulations which requires spruce, softwood, trees, or other timber, not being pine, suitable for manufacturing pulp or paper, to be manufactured in Canada, shall apply to logs, timber or wood cut and in use in Canada for fuel, building or other purposes for which logs, timber or wood in the unmanufactured state are or may be used.

7. These regulations shall not apply to the east half of the township of Aweres, in the District of Algoma, containing  $18\frac{1}{2}$  square miles.

R.S.O. 1927, c. 38, Sched. B.

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## SCHEDULE C.

### MANUFACTURING CONDITIONS—HARDWOOD TREES.

1. All birch, beech, maple, elm, ash, basswood or oak trees cut under the authority of a license, contract, agreement or other instrument under which exists the right to cut the same on Crown lands or on lands where such trees remain the property of the Crown, shall, except as hereinafter provided, be manufactured into sawn lumber in Canada, that is to say, into boards, deals, joists, lath, or other sawn lumber, or into staves or veneer, and such conditions shall be kept and observed by the holder of any such license, contract, agreement or other instrument, and by every person who cuts or causes to be cut birch, beech, maple, elm, ash, basswood or oak trees and all such birch, beech, maple, elm, ash, basswood or oak trees cut into logs shall be so manufactured in Canada.

2. If any holder of a timber license, contract, agreement or other instrument, or any servant or agent of such holder, or any person acting for him, or with his authority or permission, violates or refuses to keep and observe the provisions of the next preceding regulation, the license, contract, agreement or other instrument as to the berth, territory or lot included in the license, contract, agreement or other instrument on which or on any part of which the said trees were cut, and in respect of which or any part of which there was a breach of such regulation or a neglect

or refusal to observe or keep it, shall be suspended and held in abeyance, and shall not be reissued, nor shall a new license, contract, agreement or other instrument be made, unless and until so directed by the Lieutenant-Governor in Council, and then only upon such terms and conditions as he may prescribe.

3. The Minister, his officers, servants and agents may do all things necessary to prevent a breach of such regulation, and to secure compliance with it, and may, for that purpose, take, seize, hold and detain all timber and logs cut on the berth, territory or lot included in the license, contract, agreement or other instrument, which it appears to the Minister it is not the intention of the holder of such license, contract, agreement or other instrument, or the owner or person in possession of said timber or logs, to so manufacture or cause to be so manufactured in Canada, or to dispose of to others who will cause such timber or logs to be so manufactured in Canada, until security is given to His Majesty, satisfactory to the Minister, that the regulation will be kept and observed, and that such logs and timber will be so manufactured in Canada, and in the event of the neglect or refusal to give such security within four weeks after notice of the seizure and demand of security by or on behalf of the Minister, the Minister may sell, or cause to be sold, such logs and timber by public auction, after due advertisement, to some person who will give such security to His Majesty as the Minister may require that such logs and timber shall be so manufactured in Canada.

4. The proceeds of such logs and timber shall, after the sale and after deducting all expenses of such seizure and sale, and any sum owing to His Majesty for or in respect of any timber dues, trespass dues, ground rent, fire charges, or on account of the purchase of any timber or timber berth or land by such holder, owner, or person in possession, be paid over to the person entitled to the same.

5. Nothing in the preceding regulations which requires birch, beech, maple, elm, ash, basswood, or oak trees, logs or timber to be manufactured in Canada, shall apply to trees, logs or timber cut and in use in Canada for any purposes for which trees, logs or timber in the unmanufactured state, are or may be used.

R.S.O. 1927, c. 38, Sched. C.

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## CHAPTER 37.

## The Mills Licensing Act.

Interpre-  
tation.**1.** In this Act,—

“Mill.”

“Milling.”

- (a) “Mill” shall mean and include a stationary or portable sawmill or pulp and paper mill, and “milling” shall mean carrying on the business of conducting and operating a mill;

“Minister.”

- (b) “Minister” shall mean Minister of Lands and Forests;

“Regula-  
tions.”

- (c) “Regulations” shall mean regulations made under the authority of this Act. R.S.O. 1927, c. 39, s. 1.

Licenses.

**2.** Subject to the regulations the Minister may, in his discretion, issue licenses for conducting and operating mills in Ontario. R.S.O. 1927, c. 39, s. 2.

Regulations.

**3.** The Lieutenant-Governor in Council may from time to time make regulations,

- (a) for the issue of licenses for the construction and operation of mills;
- (b) prescribing the form of license and the fees to be paid therefor;
- (c) prescribing the term of any license issued under this Act and providing for the renewal thereof;
- (d) imposing such conditions as to the location, erecting or setting up of mills, the method of operating mills and the precautions to be taken by licensees for the prevention of fire and for the safety of life and property and the disposal of waste or refuse therefrom;
- (e) prescribing the returns to be made by licensees as to the sources of supply of the material for use in mills, the quantity of material used and the output of mills; and

(f) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 39, s. 3.

4.—(1) Every person who constructs, erects, sets up, conducts or operates a mill without first having obtained a license from the Minister, or who contravenes any of the regulations, shall be guilty of an offence and for each such offence shall incur a penalty not exceeding \$200, and in default of payment thereof shall be liable to imprisonment for a period not exceeding six months.

(2) Upon conviction of any offence under this Act, the Minister may cancel any license issued to the offender. R.S.O. 1927, c. 39, s. 4.

Offences and penalties.

Cancellation of license.

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## CHAPTER 38.

## The Provincial Forests Act.

Declaration  
of lands  
set apart.

1. The several tracts of land described in Schedule A to this Act are hereby declared to be and are set apart as provincial forests under the names set out in the said schedule. 1929, c. 14, s. 2.

Power  
to set apart  
provincial  
forests.

2. The Lieutenant-Governor in Council may by proclamation establish and set apart any other portions of the public domain as provincial forests, and may add to any provincial forests hereby or hereafter established. 1929, c. 14, s. 3.

Lands re-  
served, not  
to be  
located, sold  
et cetera.

3. From and after the date hereof as to the provincial forests set out in the schedule hereto, and from and after the date of any proclamations issued under the authority of this Act, no land within any such forests shall, except where the Lieutenant-Governor in Council may otherwise direct, be located, sold, leased or otherwise disposed of for the purposes of agricultural settlement. 1929, c. 14, s. 4; 1931, c. 23, s. 30 (1).

Control and  
manage-  
ment.

4.—(1) Every provincial forest shall be under the control and management of the Minister of Lands and Forests, and the Lieutenant-Governor in Council may make regulations for its protection, care and management.

Publication  
of  
regulations.

(2) Any regulations passed under the authority of this Act shall be published for four consecutive weeks in the *Ontario Gazette*, and shall immediately thereafter have the force of law and shall be laid before the Assembly within the first two weeks of the Session next after the making thereof. 1929, c. 14, s. 5.

Appoint-  
ment of pro-  
vincial forest  
officer.

5. The Lieutenant-Governor in Council may appoint a forester in charge of provincial forests, whose duty it shall be under the Minister of Lands and Forests to carry out any regulations passed under this Act and to have charge, control and management of the provincial forests hereby established and any forests hereafter established, or any additions thereto, and it shall be the duty of such officer to preserve the said forests according to the best forestry practice, and to gradually bring them under a sustained yield basis, and generally to

have charge, control and management of the said provincial forests. 1929, c. 14, s. 6.

6. Where any timber in any provincial forest or any part thereof has been damaged by fire or has attained commercial maturity the same may be offered for sale, subject to such regulations as may be made by the Lieutenant-Governor in Council. 1929, c. 14, s. 7.

Sale of  
timber,—  
provincial  
forests.

7. Whenever it is deemed expedient to establish a site for a town or to use land for any purpose other than agricultural settlement within the limits of a provincial forest, the Lieutenant-Governor in Council may withdraw such lands as are necessary for that purpose from such provincial forest, and thereafter this Act shall no longer apply to such lands. 1929, c. 14, s. 8.

Lieutenant-  
Governor  
may with-  
draw lands  
for townsite  
purposes.

8. On the recommendation of the Minister the Lieutenant-Governor in Council may make such order as may be necessary or proper from time to time for the use of any one or more of the provincial forests, or any part or parts thereof, for shooting, fishing, camping, recreational or instructional purposes not inconsistent with the growth and development of timber. 1929, c. 14, s. 9.

Lieutenant-  
Governor  
may make  
order for  
shooting,  
game or  
fishery  
purposes.

9.—(1) The Minister, for the purpose of creating a provincial forest, may arrange with any holder of a timber limit which has been cut over and upon which forest growth exists, or which the Minister is satisfied will generally reproduce timber, for the surrender of such limit or any part thereof, upon such terms and conditions as to the remission of any timber dues or ground rent or any part thereof which may be due or owing to the Crown in respect thereof, and upon such other conditions as may be set forth in the report of the Minister and approved by the Lieutenant-Governor in Council.

Surrender  
of cut-over  
timber land.

(2) The order-in-council and the report of the Minister shall be laid before the Assembly within the first two weeks of the Session next after the date of the order-in-council. 1929, c. 14, s. 10.

Order-in-  
council and  
report for  
Assembly.

10. For a violation of any provision of this Act or of any regulation made thereunder the offender, in addition to any other liability, shall incur a penalty of not more than \$50 recoverable under *The Summary Convictions Act*, and shall also be liable for all damages resulting from any such violation to be recoverable in any court of competent jurisdiction. 1929, c. 14, s. 11.

Penalty.

Rev. Stat.,  
c. 136.

## SCHEDULE A

The lands hereinafter described shall constitute and be known as Provincial Forests.

## EASTERN PROVINCIAL FOREST

The area known as the Eastern Forest Reserve comprising 100 square miles, more or less, with the following additions thereto, namely: Timber Licenses (1927-1928) numbers 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 158, 159, comprising  $225\frac{3}{4}$  square miles more or less.

## TIMAGAMI PROVINCIAL FOREST

That area known as the Timagami Forest Reserve, comprising 5,830 square miles more or less with the following addition thereto, namely: Timber License (1927-1928) number 163, comprising 100 square miles more or less, excepting therefrom that portion of the Township of Lorrain which was included in said Timber License (1927-1928) number 163.

## MISSISSAGI PROVINCIAL FOREST

That area known as the Mississagi Forest Reserve, comprising 4,896 square miles more or less with the following additions thereto, namely: Timber Licenses, numbers 408, 409, 414, 415, 416, 417, 418, 419, 420, 421, 423, comprising 366 square miles more or less.

## GEORGIAN BAY PROVINCIAL FOREST

The land vested in the Crown in the following townships—Mowat, Blair, Wallbridge, Brown, Harrison, Burton, Shawanaga and Burpee, comprising 677 square miles more or less.

## SIBLEY PROVINCIAL FOREST

That area known as the Sibley Forest Reserve comprising 80 square miles more or less.

## NIPIGON PROVINCIAL FOREST

That area known as the Nipigon Forest Reserve, comprising 7,100 square miles more or less.

## WANAPITEI PROVINCIAL FOREST

All lands vested in the Crown in Norman, Aylmer and Parkin Townships and that portion of Rathbun Township contained in Lots Eleven to Twenty-four in Concessions Four, Five and Six, inclusive; comprising 70 square miles more or less.

## KAWARTHA PROVINCIAL FOREST

The portions of the Townships of Harvey, Burleigh and Methuen now vested in the Crown comprising 162 square miles more or less.

1929, c. 14, Sched. A; 1931, c. 23, s. 30 (2).

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## CHAPTER 39.

## The Forestry Act.

Inter-  
pretation.

## 1. In this Act,—

(a) "Minister" shall mean Minister of Lands and "Minister." Forests;

(b) "Lands" shall include lands covered with water; all trees and underwood growing upon land; all mines, minerals, gas, oil, salt, quarries and fossils in and under land; the interest in land of a tenant or occupant, and the interest of a holder of any lease, license, concession, or contract under which there has been acquired from the Crown any right to be exercised in respect of or over or upon land, and all buildings, improvements, structures and fixtures in or on land. R.S.O. 1927, c. 41, s. 1.

2. The Minister may for and in the name of His Majesty lease, purchase or acquire, and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land in Ontario which the Minister may deem necessary for forestry purposes and may lease, sell or otherwise dispose of the interest of the Province in any land thus leased, purchased, acquired or expropriated, or the timber thereon, and for the purposes of this section the Minister shall have and may exercise the like powers and shall proceed in manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario and the provisions of that Act shall *mutatis mutandis* apply. R.S.O. 1927, c. 41, s. 2.

Power  
to acquire  
lands for  
forestry  
purposes.Rev. Stat.,  
c. 54.

3. Lands acquired under the provisions of this Act shall be under the control and management of the Minister who may develop, protect, care for, and manage such lands and may sell and dispose of any timber which in the opinion of the Minister for any reason should be disposed of. R.S.O. 1927, c. 41, s. 3.

Adminis-  
tration and  
manage-  
ment.

4. For the purposes of reforestation, developing and managing for forestry purposes lands held by other persons, firms, corporations or municipal corporations, the Minister may

Agreements  
as to forestry  
develop-  
ment on  
private  
lands.

enter into agreements for such purposes with any such persons, firms, corporations or municipal corporations. R.S.O. 1927, c. 41, s. 4.

Disposing  
of Crown  
lands for  
forestry  
purposes.

5. For forestry purposes the Minister may lease, sell or otherwise dispose of Crown lands and may enter into agreements with reference thereto. R.S.O. 1927, c. 41, s. 5.

Employees.

6. For the purpose of carrying out the provisions of this Act the Minister may employ such persons as he may deem necessary, and they shall be subject to the instructions of the Minister. R.S.O. 1927, c. 41, s. 6.

Appropriation of  
funds.

7. All moneys required for the purposes of this Act shall be paid out of any sum appropriated by the Legislature and voted by the Assembly for that purpose. R.S.O. 1927, c. 41, s. 7.

Taking  
townships  
out of  
unions.

Rev. Stat.,  
c. 266.

8. Notwithstanding anything contained in *The Municipal Act*, when a township forming part of a union of townships has less than twenty-five resident freeholders whose names are entered on the last revised assessment roll, the Lieutenant-Governor in Council may, for forestry purposes, by proclamation, detach such township from such union of townships, upon such terms as may seem proper, and thereupon such township so detached shall cease to be incorporated and shall not thereafter without the approval of the Lieutenant-Governor in Council, become, be annexed to, or form part of a municipal corporation, and the said order-in-council may contain such provisions as may seem proper and necessary for any school section that may be affected by the said order-in-council. R.S.O. 1927, c. 41, s. 8.

Declaring  
incorporated  
townships  
part of  
provincial  
forest.

Rev. Stat.,  
c. 266.

9. Notwithstanding anything contained in *The Municipal Act*, where any township has an area of less than ten per centum of such township used for farming purposes the Lieutenant-Governor in Council may for forestry purposes, by proclamation, declare that the township or such part of the said township as may be designated by the said order-in-council shall form part of a provincial forest, or be otherwise used for forestry purposes, upon such terms as may be set out in the said order-in-council, and for municipal or administrative purposes any balance of the said township may be attached to any adjoining township, and the said order-in-council may contain such provisions as may seem proper and necessary for any school section that may be affected by the said order-in-council. R.S.O. 1927, c. 41, s. 9.



**10.** For the purpose of making a survey and estimating the timber and other natural resources of the Province, and the adaptability of land for forestry purposes, the Minister may himself or by any officer or person appointed by him for that purpose, and without the consent of the owner, from time to time, enter into and upon any land to whomsoever belonging, and there investigate and examine the condition of such land for the purposes provided for and intended by this Act. R.S.O. 1927, c. 41, s. 10.

Right of entry for estimating natural resources of land.

**11.** Whenever any townships, township, or part of a township have been taken over by the Minister for forestry purposes the Lieutenant-Governor in Council may upon the recommendation of the Minister declare that all the roads, reserves, allowances for roads, or other public lands in such area shall be closed to the public upon such terms and conditions as may seem proper. R.S.O. 1927, c. 41, s. 11.

Power to close roads on lands taken over for forestry.

**12.** Upon the recommendation of the Minister the Lieutenant-Governor in Council may, by proclamation, provide that any township or portion of a township in Ontario suitable for settlement purposes, may be set aside for the purpose of location of settlers whom the Minister may desire to move from locations that have been found to be unsuitable for agricultural purposes, and which it is desired to take over for forestry purposes, and the terms and conditions of location upon such lands may be fixed and determined by the said Order-in-Council. R.S.O. 1927, c. 41, s. 12.

Setting apart lands for settlement of settlers removing from unsuitable lands.

**13.** Whenever in the opinion of the Minister it is found that settlement has taken place on lands not suitable for agricultural purposes and which said lands are required for forestry purposes, the Minister shall have power to make arrangements for the removal of such settlers upon such terms as may be agreed upon, and may pay the expenses of the removal of such settlers and their families, chattels and effects to lands designated under section 12 and may enter into agreements with such settlers for the purposes of providing for such removal and for the reconveyance or release of the said lands to the Crown. R.S.O. 1927, c. 41, s. 13.

Removal of settlers from lands unsuitable for farming.

**14.** Whenever in the opinion of the Minister any lands required under this Act, or otherwise, are suitable for the creation of a provincial forest, the Lieutenant-Governor in Council may, by proclamation, set apart such lands as a provincial forest under *The Provincial Forests Act*, notwithstanding the fact that such lands may be valuable or used for the preservation or reproduction of timber other than pine. R.S.O. 1927, c. 41, s. 14.

Provincial forest, proclamation of.

Rev. Stat., c. 38.

Requiring  
permit for  
entering  
Provincial  
Forest.

**15.** Upon the recommendation of the Minister the Lieutenant-Governor in Council may, by proclamation, provide that no person shall enter upon any lands acquired under this Act or lands forming a part of any provincial forest without a permit obtained for that purpose and upon such terms and conditions as may be proper and necessary, and subject to such penalties for a breach of the terms and conditions as may be provided for by the order-in-council. R.S.O. 1927, c. 41, s. 15.

"Forestry  
Board,"  
establish-  
ment of.

**16.** Upon the recommendation of the Minister the Lieutenant-Governor in Council may, by proclamation, create a board to be known as the "Forestry Board," consisting of five members to be appointed in such manner and for such terms as may be provided for by the Order-in-Council, for the purpose of carrying on research work in connection with the forestry lands of the Province of Ontario, and to study all questions in connection with the planting, growth, development, marketing and reproduction of pulpwoods on the said Crown lands and on the lands of Crown lessees, licensees and concessionaires in the Province of Ontario, and with such further or other powers as may be designated by the said Order-in-Council. R.S.O. 1927, c. 41, s. 16.

Regulations.

**17.** Upon the recommendation of the Minister, the Lieutenant-Governor in Council may make such regulations as he may deem necessary to carry out the provisions of this Act. R.S.O. 1927, c. 41, s. 17.

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## CHAPTER 40.

## The Forest Resources Regulation Act.

## 1. In this Act,—

Interpre-  
tation.

- (a) "Company" shall include every corporation, firm, partnership or individual operating in Ontario and manufacturing mechanical pulp, chemical pulp, paper, lumber, or any other product of the forest;
- (b) "Crown timber" shall mean trees standing, growing or being on ungranted public lands and trees standing, growing or being on other lands where the rights to such trees are reserved in the Crown and shall include the timber derived from all such trees until all dues and charges payable under *The Crown Timber Act* have been paid; "Crown timber."  
Rev. Stat.,  
c. 36.
- (c) "Department" shall mean Department of Lands and Forests; "Depart-  
ment."
- (d) "Minister" shall mean the Minister of Lands and Forests. 1936, c. 22, s. 2. "Minister."

2. Upon the recommendation of the Minister, the Lieutenant-Governor in Council may make such regulations as may be deemed necessary for the more efficient and economical operation of the forest products industries and for effecting the most advantageous utilization of the timber resources of the Province, and may,— Power of  
Lieutenant-  
Governor  
in Council.

- (a) fix the kinds and quantities of timber which shall be cut, within any stated period, from lands over which any company holds cutting rights granted by the Crown, having regard to the reasonable business requirements of such company, and fix the kinds and quantities of timber cut from such lands which shall be used by such company for conversion into pulp, paper or other products within any stated period;
- (b) increase or reduce the size of the area or areas included in any license, lease, concession agreement or

arrangement, having regard at all times to the maintenance of a sufficient supply of timber for the purposes of the business of the company holding such license, lease, concession agreement or arrangement;

- (c) exclude any type, size or class of timber from the provisions of any such license, lease, concession agreement or arrangement where, in the opinion of the Minister, such timber is not required for the purposes of the business of the company holding such license, lease, concession agreement or arrangement;
- (d) limit the cutting of the timber included in any such license, lease, concession agreement or arrangement to such material in respect of the size, age, quality, types and distribution as may be deemed consistent with approved forestry methods;
- (e) increase the stumpage charges payable by any company in respect of timber to be cut during any period from lands over which any company holds cutting rights granted by the Crown and in respect of timber cut from such lands and held, owned or used by such company during any period, to an amount not exceeding five times such stumpage charges where in the opinion of the Lieutenant-Governor in Council such company or any person or corporation employed or controlled by such company is operating or carrying on business in a manner detrimental to the public interest, either in respect of the Crown revenues, the stability of the forest products industries or the maintenance of fair wages and proper labour conditions, and may require such increased stumpage charges to be paid upon demand. 1936, c. 22, s. 3.

Minister  
may require  
informa-  
tion.

**3.—(1)** The Minister may require any company to furnish to him in writing and under oath such information relating to the utilization, transformation or disposal of timber and the products thereof as he may deem necessary for the purposes of this Act.

Information  
to be  
furnished.

**(2)** Notice of such requirement may be forwarded to the company by prepaid registered mail, and such information shall be furnished to the Minister within the time specified in such notice. 1936, c. 22, s. 4.

4. Every company which violates any of the provisions of this Act, or the regulations, shall incur a penalty of \$1,000 for every day during which such violation continues in addition to any other penalty or charge imposed by the provisions of this or any other Act and such penalty may be recovered in the manner provided for the recovery of timber dues by *The Crown Timber Act* and the regulations made thereunder.

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Provisions  
for  
violations.

Rev. Stat.,  
c. 36.



## CHAPTER 41.

## The Pulpwood Conservation Act.

Inter-  
pretation.

## 1. In this Act,—

- "Company." (a) "Company" shall mean and include a company, operating in Ontario in connection with the holding of pulpwood or pulp lands, or the manufacture of such wood into pulpwood, paper of any kind or other product of pulpwood, and a firm, partnership or individual carrying on such work in Ontario;
- "Department." (b) "Department" shall mean Department of Lands and Forests;
- "Minister." (c) "Minister" shall mean Minister of Lands and Forests;
- "Pulpwood." (d) "Pulpwood" shall mean and include any form of timber of any kind or variety capable of being used in the manufacture or production of pulp or paper of any kind whatsoever. 1929, c. 13, s. 2.

Return  
to be made  
in 1929.

2. Every company shall on or before the 1st day of September, 1929, file with the Department a statement, in duplicate, executed under the seal of such company and signed by the executive officers thereof and by the forester of such company (if any) and such statement shall contain the following information, namely,—

Particulars  
in return.

1. the full name of the company, and the names of all subsidiary companies, or holding companies, carrying on business in connection with the said company;
2. the date of incorporation of the company and a statement of the authority under which said company was incorporated;
3. the names of all companies, associations, syndicates or other organizations taken over by the said company or from whom the said company has purchased or acquired pulp lands or pulpwood in the Province of Ontario;

4. the authorized capital of the company;
5. the paid-up capital of the company;
6. particulars of all bond issues or debentures of the company;
7. particulars and a description of all leases, areas, concessions, grants, or lands held under contract, containing pulpwood in Ontario, either freehold or leasehold, or held under any license or contract from the Crown in the right of Ontario;
8. particulars of any other lands in Ontario containing pulpwood held in fee or under lease or contract from anybody other than the Crown in the right of Ontario;
9. particulars of the various plants of the company in Ontario showing the installed capacity of such plants;
10. particulars of the quantity of pulpwood used in each of the years 1919 to 1928 inclusive in each of the plants of the company in Ontario;
11. statement and particulars of the amount of pulpwood cut by the company from its various holdings in Ontario during the said years 1919 to 1928 inclusive;
12. statement and particulars of the amount of pulpwood purchased by the company from settlers in Ontario in the said years 1919 to 1928 inclusive;
13. statement and particulars of the amount of pulpwood purchased by the company from sources outside Ontario and brought into Ontario during the said years 1919 to 1928 inclusive;
14. statement and particulars of the kinds and quantities of pulpwood, pulp, paper or products from pulpwood exported, with the names of the countries to which such kinds and quantities were exported during the years 1919 to 1928 inclusive;
15. a statement with particulars of the amount of pulp, paper craft or other commercial products from pulpwood of various kinds produced from the various plants of the company in Ontario in the said years 1919 to 1928 inclusive;

16. a map showing all the areas or holdings of the company in Ontario and showing thereon the cut over areas and the areas containing standing timber and the nature, character and extent thereof;
17. an estimate of the quantity of pulpwood showing in detail the various kinds thereof owned by the company in Ontario, showing the location of such holdings and certified to by a forester, and
18. (a) a plan or scheme in detail prepared by the said company providing for the placing of its supply of pulpwood on a sustained yield basis so that the consumption of pulpwood shall not exceed the production of pulpwood in any year, and with the intention that the said industry may be placed on a permanent basis with respect to raw material;
- (b) the said plan may provide for a period of five years in which the plan or scheme is to become effective and shall set out the details of such plan in full and the source and means of supply and the annual consumption to be provided for the company;
- (c) the said plan shall also show the rate of natural growth on which it is based and the provision it is proposed to make for further supplies so that the company's supply of raw material may be maintained on such sustained yield basis. 1929, c. 13, s. 3.

Extending  
time for  
filing return..

**3.** The Minister may extend the time for filing such statement for any company or companies upon receipt of an application therefor, for such period of time as in his opinion may be necessary and proper under the circumstances, but such extension shall not extend beyond the 1st of September, 1931. 1929, c. 13, s. 4.

Plan for  
sustained  
yield of  
pulpwood  
in Ontario.

**4.—(1)** On receipt of the said statements, the Department shall study the same individually and collectively and may submit the same to the Forestry Board for approval or recommendation, and, if necessary, shall hold conferences with the officers and foresters of the companies and with the officers and foresters of other provinces from time to time, and shall devise some general plan to place the pulpwood supply of Ontario on a sustained yield basis so that the industry may have an assured source of supply.

(2) If it is considered necessary the Province may be divided into sections for the purpose of working out the said general plan or a plan for any individual company.

(3) The said plan or plans may be brought into force at one time or at different times as may be found necessary.

(4) The said plan or plans may provide for periodic revision according to the conditions existing from time to time.

(5) Upon the completion of a general plan for the Province or upon the completion of a plan for any area or any individual company, the same may be authorized by an order-in-council and upon being so authorized shall have the same effect as if it were set out in detail in this Act. 1929, c. 13, s. 5.

5.—(1) Notwithstanding anything contained in any general or special Act or in any license, lease, concession, grant, agreement or other document under which the right to cut pulpwood is claimed or exercised the Minister shall have authority to fix the size and kind of trees and timber which may be cut by such company, and such authority may be exercised in such part of Ontario and for such time and on such terms and conditions as the Minister may direct and any directions so given may in like manner be varied from time to time.

Authority of  
Minister as  
to control of  
cutting.

(2) Where no plan has been authorized, or where in the opinion of the Minister an authorized plan is not being properly carried out, the Minister shall have the further right and authority to direct and control the location, sequence or extent of cuttings and to limit the cutting from year to year, by any company, for the purpose of conserving the source of supply and placing Ontario on a sustained yield basis. 1929, c. 13, s. 6.

6. Upon the recommendation of the Minister the Lieutenant-Governor in Council may authorize the establishment of a nursery or nurseries for the growing and production of spruce and other pulpwoods, and for the supplying of the same to companies for planting for the purpose of increasing the pulpwood supply of Ontario, and nursery pulpwood stock may be supplied to the companies on such terms and conditions as may be fixed by order-in-council from time to time. 1929, c. 13, s. 7.

Nurseries.

7. For the purpose of carrying out any authorized working plan the Lieutenant-Governor in Council may set aside for any company any townships, berths, or locations suitable and proper for the planting of nursery pulpwood stock and may require the company to plant a certain quantity of stock each and every year and may contain provision for the proper planting and care thereof by the company, and such further

Planting  
nursery  
pulpwood  
stock.

provisions as may be necessary so that the company may be entitled to the growth thereof as additions to their supply of raw material, upon such terms and conditions as may be set out in the order-in-council. 1929, c. 13, s. 8.

Provision  
for cost of  
work.

**8.** The Lieutenant-Governor in Council may by order-in-council provide for a source of revenue for the purpose of carrying out the provisions of this Act and placing the supply of pulpwood on a sustained yield basis and an addition may be made to the dues payable by all companies in Ontario of a sum not exceeding twenty-five cents per cord on such quantities as are cut and returned by the company under the terms of its contract with the Crown, for the general expenses of the Department in the conservation of pulpwood and the carrying out of this Act. 1929, c. 13, s. 9.

Annual  
return of  
company.

**9.** Every company shall on or before the 1st day of August in each year file with the Department a statement in the form prescribed by the Department showing the operations of the company for the previous year expiring on the 1st of May and containing such information, particulars and details as may be prescribed and required by the Department from time to time. 1929, c. 13, s. 10.

Regulations.

**10.** Upon the recommendation of the Minister the Lieutenant-Governor in Council may make such regulations as may be deemed necessary to carry out the true intent and purpose of this Act. 1929, c. 13, s. 11.

Penalty.

**11.** Every company guilty of any breach of the provisions of this Act, or of the regulations made thereunder, or of any direction or order of the Minister shall incur a penalty of not less than one hundred dollars per day for each and every day of such neglect, default or breach, to be recoverable by the Minister by action, suing in his name of office in any court of competent jurisdiction, and, in addition, any breach of this Act shall be regarded as a breach of the original contract or lease under which the company is carrying on operations, and the said company shall, in addition, be liable for all the penalties contained and set out in such contract or agreement. 1929, c. 13, s. 12.

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## CHAPTER 42.

## The Settlers' Pulpwood Protection Act.

## 1. In this Act,—

Interpre-  
tation,—

- (a) "Company" shall mean company, partnership or "Company". individual operating in Ontario in connection with the purchasing, trading in or holding of pulpwood or pulpwood lands by contract, lease or otherwise, or manufacturing pulpwood, paper of any kind, or other products of pulpwood;
- (b) "Minister" shall mean Minister of Lands and "Minister". Forests;
- (c) "Regulations" shall mean regulations made under the "Regulations". provisions of this Act;
- (d) "Settler" shall mean any *bona fide* settler occupying "Settler". lands under *The Public Lands Act* or engaged in agricultural pursuits involving the clearing and cultivation of land. 1937, c. 70, s. 2. Rev. Stat.,  
c. 33.

2.—(1) The Minister or any officer of the Department of Lands and Forests upon the instructions of the Minister may investigate the prices received and the terms and conditions with respect to the sale, disposal or transfer of pulpwood cut on settlers' lands. Power to  
investigate.

(2) The Minister may require any company or settler to furnish to him in writing and under oath such information relating to sale, transfer or purchase of pulpwood as the Minister may deem necessary for the purposes of this Act. Furnishing  
of infor-  
mation.

(3) Notice may be forwarded to the company or settler by prepaid registered mail, and such information as may be required under subsection 2 shall be furnished to the Minister within the time specified in such notice. 1937, c. 70, s. 3. Service of  
notice.

3. Upon the recommendation of the Minister, the Lieutenant-Governor in Council may make regulations,— Regu-  
lations.

- (a) governing the sale and supply to any company of pulpwood cut by any settler, or of pulpwood cut from the lands of any settler;
- (b) fixing the kinds and quantities of pulpwood which may be purchased by any company within any stated period, having regard to the requirements of such company for such period;
- (c) fixing the prices to be paid by any company to any settler for pulpwood cut on settlers' lands and controlling the method of measuring such pulpwood; and
- (d) generally for the better carrying out of the provisions of this Act. 1937, c. 70, s. 4.

## Penalties.

4.—(1) Every settler who violates any of the provisions of this Act or the regulations shall be guilty of an offence and liable to a penalty of not less than \$25 and not exceeding \$100.

(2) Every company which violates any of the provisions of this Act or the regulations shall be guilty of an offence and liable to a penalty of not less than \$500 and not exceeding \$1,000, provided that where any servant, agent or employee of a company violates any of the provisions of this Act or the regulations, such company shall be guilty of an offence and the provisions of this subsection shall apply accordingly.

## Recovery of penalties.

Rev. Stat.,  
c. 136.

(3) The penalties provided by this section may be recovered under the provisions of *The Summary Convictions Act*. 1937, c. 70, s. 5.

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## CHAPTER 43.

## The Nursery Stock Act.

## 1. In this Act,—

Interpreta-  
tion,—

- (a) "Department" shall mean Department of Lands and Forests; "Depart-  
ment."
- (b) "Forestry purposes" shall mean the growing of trees for timber, lumber, fuel-wood, pulpwood, ties, saw-logs and other forest products; "Forestry  
purposes."
- (c) "Nursery stock" shall mean coniferous or hardwood seedlings, transplants, cuttings, rooted cuttings, grafts, or trees propagated or grown in a nursery. "Nursery  
stock."
- 1933, c. 42, s. 2.

2. It shall be unlawful for any person directly or indirectly, or on any pretence or device to sell or expose or keep for sale for any valuable consideration any nursery stock given free of charge for any purpose whatsoever or sold by the Department for reforestation, windbreak planting or forestry purposes. 1933, c. 42, s. 3.

3. It shall be unlawful for any person to knowingly make any false statement of fact in any application required by the Department to be made for the gift or sale to such person of nursery stock by the Department. 1933, c. 42, s. 4.

4. Every person who contravenes any of the provisions of this Act shall incur a penalty of not less than \$5 nor more than \$50 for each offence and the same shall be recoverable under *The Summary Convictions Act*. 1933, c. 42, s. 5.

Penalty.  
Rev. Stat.,  
c. 136.

## CHAPTER 44.

## The Bed of Navigable Waters Act.

Grant to  
be presumed  
to be to  
water's edge.

1. Where land bordering on a navigable body of water or stream has been heretofore, or shall hereafter, be granted by the Crown, it shall be presumed, in the absence of an express grant of it, that the bed of such body of water or stream was not intended to pass to the grantee of the land, and the grant shall be construed accordingly and not in accordance with the rules of the English Common Law. R.S.O. 1927, c. 42, s. 1.

Saving as  
to certain  
cases.

2. Section 1 shall not affect the rights, if any, of a grantee from the Crown or of any person claiming under him, where such rights have heretofore been determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or any person claiming under him who establishes to the satisfaction of the Lieutenant-Governor that he or any person under whom he claims has previous to the 24th day of March, 1911, developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant-Governor in Council to develop the said power or powers to the fullest possible extent and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may direct that letters patent granting such right be issued to such grantee or person claiming under him, under and subject to such conditions and provisions as may be deemed proper for insuring the full development of such water power or powers, and the regulation of the price to be charged for power derived from them. R.S.O. 1927, c. 42, s. 2.

Act not to  
apply to  
a certain  
locality.

3. This Act shall not apply to the bed of the river where it runs through Lot 8 in the 6th Concession of the Township of Merritt in the District of Sudbury. R.S.O. 1927, c. 42, s. 3.

Lieutenant-  
Governor  
may deal  
with special  
cases.

4. Notwithstanding anything herein contained the case of any person setting up on special grounds a claim to receive from the Crown a grant or lease of any part of the bed of a navigable body of water or stream shall be dealt with by the Lieutenant-Governor in Council as he may deem fair and just. R.S.O. 1927, c. 42, s. 4.

## CHAPTER 45.

### The Lakes and Rivers Improvement Act.

#### INTERPRETATION.

**1.** In this Act,—

Interpreta-  
tion.

- (a) "Dam" shall mean a dam or other work forwarding, "Dam." holding back or diverting water;
- (b) "Floating of timber" shall include transmission of "Floating of timber." timber;
- (c) "Lake" shall include pond; "Lake."
- (d) "Minister" shall mean Minister of Lands and "Minister." Forests;
- (e) "Regulations" shall mean regulations made by the "Regula-  
tions." Lieutenant-Governor in Council under the authority of this Act;
- (f) "River" shall include creek and stream; "River."
- (g) "Timber" shall include rafts and crafts, saw logs, "Timber." posts, ties, cordwood, pulpwood, masts, staves, deals, boards, and all sawed and manufactured lumber. R.S.O. 1927, c. 43, s. 1.

#### GENERAL PROVISIONS.

**2.—(1)** The Lieutenant-Governor in Council may make Regulations. such regulations as he may deem necessary,—

- (a) for the safe and orderly floating of timber down lakes and rivers, and for preventing the use of the lakes and rivers for the purpose of navigation by vessels and boats being unnecessarily impeded or interfered with by the timber;
- (b) as to the construction, description and dimensions of the aprons or slides which are to be provided for or in connection with dams by the owners and occupiers of them;



- (c) generally respecting the use under the provisions of this Act of lakes and rivers and waters therein;
- (d) prescribing penalties for contravention of such regulations.

Scope of regulations.

(2) The regulations may be general in their application, or be applicable to any particular Part of this Act or to any particular lake or river or to any particular dam or work.

Laying regulations before Assembly.

(3) All such regulations shall be laid before the Assembly forthwith if the Assembly is then in session, and if the Assembly is not in session within the first fifteen days after the opening of the next session thereafter. R.S.O. 1927, c. 43, s. 2.

Compliance with Part VI.

3. Every person making use of a lake or river upon which works are constructed under this Act or any other Act for the purpose of floating timber shall comply with the requirements of Part VI as to timber driving. R.S.O. 1927, c. 43, s. 3.

County or district judge sole arbitrator for determining claims.

4. Wherever in this Act any claim for compensation for land, property or works taken or injuriously affected or a claim or dispute is to be determined by arbitration a judge of the county or district court of the county or district in which the land, property or works are situate or in which the claim or dispute arises or, in the case of a claim under Part VI, in which the timber in connection with which the claim or part of the claim is made or the greater part of such timber is situate at the time of the service of the notice of claim, shall be the sole arbitrator for such purpose and the provisions of *The Arbitration Act* shall otherwise apply. R.S.O. 1927, c. 43, s. 4.

Rev. Stat., c. 109.

Where compensation for flooding or injury by dam made before grant from the Crown no liability for continuance of the dam.

5. Where land is overflowed or otherwise injured by the maintenance of a dam which was erected before the land was granted by the Crown, and the grantee or any person under whom he derived title obtained a reduction in the price of the land on account of, or was otherwise indemnified for, its being overflowed or otherwise injured by the dam no subsequent owner of the land shall be entitled to maintain an action against the owner or occupier of the dam for damages for any overflowing or injury to the land due to the continuance of the dam. R.S.O. 1927, c. 43, s. 5.

Restrictions upon operations.

6. Nothing in this Act shall authorize any person to obstruct any waters already navigable or to collect tolls other than those upon timber. R.S.O. 1927, c. 43, s. 6.

Rights of parties as to water powers created.

7. If, by reason of a dam erected for the floating of timber, any water power is created the owner of the dam shall not

have any title or claim to the use of such water power; but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam the claim shall be determined by arbitration and the arbitrator may take into account the increased value of his land by reason of the water power so created. R.S.O. 1927, c. 43, s. 7.

## PART I.

### CONSTRUCTION, REPAIR AND USER OF DAMS.

8. In this Part "owner" shall mean the owner of a dam<sup>"Owner," meaning of.</sup> and the person constructing, maintaining and operating it. R.S.O. 1927, c. 43, s. 8.

9.—(1) A dam shall not be constructed in any lake or river unless and until the site and the plans and mode of construction thereof have been approved by the Lieutenant-Governor in Council in the manner hereinafter provided.<sup>Approval of plans of dams by Lieutenant-Governor in Council.</sup>

(2) Application for such approval shall be made in writing to the Minister and shall be accompanied by,—<sup>Application for approval.</sup>

- (a) complete copies of the plans and a report of the engineer in charge of the work showing full details of the construction of sluice-gates, spillways and other works connected with the dam and the height at which the water is to be held;
- (b) a map of the watershed affected which shall show the area of the watershed above the dam with the estimated elevation of high water caused by the spring, summer and autumn freshets, where the water level is raised by the dam, and the submerged areas at low, normal and high water periods, in different colours;
- (c) particulars as to the nature of the bottom or foundation on which the dam is to be constructed with reports of all boring or test pits;
- (d) such other particulars as the Minister shall require.

Provided that where it is proposed to construct a temporary dam for lumbering or other purposes, the owner may apply to the Minister for permission to construct and maintain the same, giving such information relative to the dam as the Minister may require, and the Minister may thereupon in his<sup>Proviso.</sup>

discretion grant such permission if it is considered by him to be safe and advisable in the public interest so to do, and provided further that nothing herein contained shall prevent or apply to the construction of an emergency dam where such construction may be considered necessary for the prevention of loss or damage, but the owner in such case shall immediately give notice to the Minister that he is proceeding with the construction of the dam and shall thereafter comply with any directions of the Minister as to the precaution to be taken in maintaining the dam or its removal when the purpose for which it was constructed has been served.

Engineer to  
examine  
plans.

(3) The approval of the Lieutenant-Governor in Council shall not be given until an engineer designated by him (hereinafter referred to as "the engineer") shall have examined the plans, documents and other information and recommended the approval of the proposed dam.

Fishway.

(4) Upon the request of the Department of Game and Fisheries made either before or after the construction thereof every such dam hereafter constructed shall be provided with a fishway which will permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1927, c. 43, s. 9.

Approval of  
plans and  
mode of con-  
struction of  
improve-  
ments.

**10.** Where a dam has heretofore been or shall hereafter be constructed in any lake or river and it is proposed to make improvements to such dam such improvements shall not be proceeded with until complete copies of the plans and a report of the engineer in charge of the work showing full details as to the nature and mode of construction of such proposed improvements has been filed in the office of the Minister and such plans and mode of construction have been approved of by the Lieutenant-Governor in Council as provided in section 9; provided that this section shall not apply to improvements in the nature of a work of ordinary maintenance and repair nor to improvements which in the opinion of the Minister are not of sufficient importance to call for the approval of the Lieutenant-Governor in Council and in such case the Minister under his own hand may approve of the plans and mode of construction of the proposed improvements. R.S.O. 1927, c. 43, s. 10.

Proviso.

Requiring  
production  
of plans on  
report of  
engineer.

**11.—(1)** Where a dam has heretofore been or shall hereafter be constructed in any lake or river and an engineer or other officer of the Department of Lands and Forests reports that by reason of the construction or condition of such dam water may be held, released or diverted in sufficient volume to cause personal injury or damage to property, the Minister may

require the owner of such dam to furnish within a given time the plans and other particulars mentioned in subsection 2 of section 9. 1928, c. 11, s. 2.

(2) Upon failure, on the part of the owner to furnish such plans and other particulars within the time specified, the Minister may require the engineer to make an examination and report on such dam and the expenses incurred in making such examination and report shall be a debt due by the owner to the Crown, and the amount thereof as certified by the Minister shall be recoverable with costs in any court of competent jurisdiction at the suit of the Treasurer of Ontario.

(3) For the purpose of making such report, the engineer shall have free access to all parts of the dam and to the adjoining or neighbouring lands and to all plans, books, accounts, documents and reports relating to the construction of such dam.

(4) On the report of the engineer, the Lieutenant-Governor in Council may make such order as he may deem necessary to ensure the safety of the public or of persons whose lands and property may be endangered by such dam, and for such purpose may order the owner to repair, improve, open up or remove it, and may fix the time within which such repairs, improvements, opening up or removal shall be completed.

(5) Upon non-compliance with such order within the time limited or, in case the Minister deems that the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister shall have power to do whatever is necessary to comply with such order and the cost of any work done by or under the direction of the Minister as certified by him, shall be a debt due by the owner to the Crown and shall be recoverable with costs in any court of competent jurisdiction at the suit of the Treasurer of Ontario.

(6) Where any dam heretofore constructed has not been provided with a fishway the Lieutenant-Governor in Council may at the request of the Department of Game and Fisheries, direct that the owner of such dam shall forthwith provide a fishway to permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1927, c. 43, s. 11 (2-6).

**12.—(1)** Every person who,—

(a) constructs or maintains any dam in contravention of this Part; or

Failure to furnish plans.

Engineer to have free access.

Order to repair, improve, etc.

Effect of non-compliance with order.

Direction for fishway to be provided.

Penalty for contravention of Act.



(b) refuses or neglects to comply with any order of the Lieutenant-Governor in Council or any requirement or direction of the Minister made under this Part; or

(c) hinders or obstructs the engineer in the performance of his duties under this Part, or refuses or neglects to produce any plans, accounts, documents or report relating to the construction of a dam when required by such engineer, shall on summary conviction, incur a penalty not exceeding \$500, and if after conviction such default continues, such person shall be liable to a further penalty of \$10 for each day upon which such default continues.

Liability of person not restricted by conviction under subsection 1.

(2) The conviction of any person under subsection 1 shall not affect the liability of such person for damages or otherwise either at common law or under any Statute in force in Ontario. R.S.O. 1927, c. 43, s. 12.

Plans, etc. to be filed in Department.

**13.** All plans, orders and reports furnished or made under this Part shall be kept on file in the Department of Lands and Forests. R.S.O. 1927, c. 43, s. 13.

Disputes as to user.

**14.** Where it appears expedient in the public interest, or where any conflict or dispute arises between persons having a right to use a lake or river, or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers with such powers and duties as may be deemed expedient to be in charge of the lake or river or any works or improvements thereon and to regulate the use of the lake or river, or any works or improvements thereon in such manner as shall seem best calculated to afford to persons having diverse interests on the lake or river, or in the works or improvements a fair and reasonable use of the waters of the lake or river; provided that where any alterations of the level of international boundary waters is involved such regulation, powers and duties shall conform to any order or recommendation which the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States. R.S.O. 1927, c. 43, s. 14.

Regulation of use of water.

**15.** Where a dam or other structure or work for the development, improvement or utilization of a water power on any river down which any timber is floated has been heretofore or shall hereafter be constructed the Minister with the approval



of the Lieutenant-Governor in Council may make such order as he may deem expedient respecting the use of the river or of the waters of it, or of any water which is or is intended to be stored by means of any such dam, structure or work by the owners and occupiers of it, or of any work operated wholly or partly by the power so developed or improved and by persons using the river for the purpose of floating timber. R.S.O. 1927, c. 43, s. 15.

16. Subject to compensation being made as provided by *The Public Works Act* for any damages sustained by reason thereof, the Minister may authorize any engineer, agent, workman, or servant, employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he deems necessary or expedient in the public interests. R.S.O. 1927, c. 43, s. 16.

Removal of obstructions, dams, etc., on order of Minister.  
Rev. Stat., c. 54.

17.—(1) A judge of the county or district court of the county or district in which any part of any works used for floating timber is situate, on the complaint of any person interested in the floating of timber down any lake or river, through or over the works upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof.

Case of works out of repair.

(2) The judge shall, after report of the inspector, order and direct what repairs are necessary and shall be made by the owner of the works, and the time by which the same shall be made and completed.

Order to repair.

(3) If the owner does not comply with such order the person so interested may make the repairs, and the cost thereof, or such portion of them as the judge determines, shall be paid by the owner and be a lien and charge in favour of such person on the works and tolls.

When person interested may repair.

(4) The judge may require the applicant to deposit with the clerk of the court such sum as will, in the opinion of such judge, be sufficient to pay the fees and expenses of the inspector, to be allowed by such judge at a rate not exceeding \$10 per day and actual travelling expenses, and such sum, when the works are found to be clearly inadequate by reason of being out of repair, may, in the discretion of the judge, be made a lien or charge in favour of the person paying the same on the works and tolls.

Deposit to cover fees.

Bond to  
cover costs.

(5) The applicant shall, before the application comes on to be heard, file with the judge a bond signed by himself in the sum of \$100 and by two sufficient sureties, who shall duly qualify, each in the sum of \$50, conditioned to pay to the owner such costs connected with the application and subsequent proceedings as the owner may become entitled to.

Notice.

(6) Four days' notice of the application shall be sufficient and the notice may be served upon the owner or in the case of a company upon the president, secretary or superintendent, manager or acting manager thereof.

Costs in  
discretion of  
judge, etc.

(7) The costs incidental to the application shall be upon the county court or division court scale as the judge may direct.

"Inspector,"  
meaning of.

(8) "Inspector" shall mean any person appointed by the Lieutenant-Governor in Council to act as inspector of works constructed for the floating of timber. R.S.O. 1927, c. 43, s. 17.

Provision for  
passage of  
timber.

**18.** Where a dam is now or shall hereafter be erected on or across any lake or river down which timber is usually floated such dam shall at all times be provided with a slide or apron for the passage of timber of such description and dimensions as shall be prescribed by the regulations. R.S.O. 1927, c. 43, s. 18.

Apron to  
admit of  
timber  
passing.

**19.** Every such apron shall be so constructed and maintained as to afford depth of water sufficient to admit of the passage over it of such timber as is usually floated down the lake or river on which the dam is erected. R.S.O. 1927, c. 43, s. 19.

Penalty  
for not  
providing  
apron.

**20.—(1)** The owner and occupier of a dam who does not provide, maintain and keep in repair an apron thereto in accordance with the regulations, shall on summary conviction incur a penalty of \$20 for every day on which the default occurs or during which it continues.

Where apron  
carried away  
penalty  
suspended.

(2) Where the apron is carried away, destroyed or damaged by flood or otherwise the owner or occupier of the dam shall not be liable to the penalty provided by subsection 1 if the apron is repaired or reconstructed as soon as the state of the lake or river safely permits. R.S.O. 1927, c. 43, s. 20.

## PART II.

## PROCLAMATION CONTROLLING NAMED LAKE OR RIVER.

**21.** The Lieutenant-Governor in Council may, by proclamation, declare that any lake or river shall be subject to the provisions of this Part. R.S.O. 1927, c. 43, s. 21.

Control  
by Proclamation.

**22.**—(1) From and after a date named in the proclamation, all questions arising in relation to such lake or river,—

Jurisdiction  
of Minister.

- (a) as to the right to construct or use works or improvements thereon;
- (b) as to the respective rights of persons using the lake or river for the purpose of floating timber thereon;
- (c) as to the right to interfere with, alter or obstruct in any manner the flow of the water in such lake or river

shall be determined by the Minister upon application to him by any of the parties concerned, and after such notice to other parties interested as the Minister may direct, and no action or other proceeding shall lie or be taken in any court with respect to any such matter.

(2) The order of the Minister given in writing shall be final and shall not be subject to appeal.

Decision to  
be final.

(3) Any such order may be filed in the central office of the Supreme Court, or in the office of the local registrar, or deputy registrar, and upon being so filed it shall become an order of the Supreme Court and may be enforced in the same manner and by the like process as if it had been made by that Court.

Enforcement  
of order of  
Minister.

(4) The like fees shall be payable as upon an order made by a judge of the Supreme Court in the exercise of his ordinary jurisdiction.

Fees on  
filing order.

(5) The Order shall be entered in the same manner as a judgment of the court. R.S.O. 1927, c. 43, s. 22.

Entry of  
order.

## PART III.

## PUBLIC RIGHTS IN LAKES AND RIVERS.

Application. **23.** This Part shall be subject to the provisions of Parts I and II. R.S.O. 1927, c. 43, s. 23.

Right to float timber. **24.**—(1) All persons shall have the right to and may, subject to the provisions of this Part, during the spring, summer and autumn freshets, float timber down all lakes and rivers.

Duty not to obstruct. (2) No person shall, by felling trees or placing any other obstruction in or across any lake or river, prevent the floating of timber.

Right to remove obstructions and to construct works. (3) If it is necessary to remove any obstruction from a lake or river, or to construct any dam, apron, slide, gate, lock, boom or other work therein or thereon in order to facilitate the floating of timber down the lake or river, the person requiring so to float the same may remove such obstruction, and may construct such dam, apron, slide, gate, lock, boom or other work, doing no unnecessary damage to the lake or river or to its banks.

Right to persons driving timber, etc., to go on banks. (4) All persons driving timber down a lake or river shall have the right to go along the banks of the lake or river for the purpose of assisting and to assist the floating of the timber, by all means usual with lumbermen, doing no unnecessary damage to the banks of the lake or river. R.S.O. 1927, c. 43, s. 24.

Right of public to use works and improvements. **25.** A person who has constructed in or upon a lake or river, which was not navigable or floatable before the same was constructed, any dam, apron, slide, gate, lock, boom or other work necessary to facilitate the floating of timber down such lake or river, or blasts rocks or removes shoals or other impediments from or otherwise improve the floatability of the lake or river, shall not have the exclusive right to the use of the lake or river or of the works or improvements, but all persons, subject to the payment of tolls fixed under Part V, shall have the right during the spring, summer and autumn freshets to float timber down such lake or river and through and over such works and improvements, doing no unnecessary damage. R.S.O. 1927, c. 43, s. 25.

Act to apply whether land patented or not. **26.** All the rights conferred by this Part shall extend and apply to all works and improvements heretofore or hereafter made, on any lake or river, whether the bed of the lake or



river has been granted by the Crown or not. R.S.O. 1927, c. 43, s. 26.

**27.**—(1) Where upon the course of a river it enters or widens into a lake or other considerable body of water, every person using the river for the purpose of floating timber shall provide proper and adequate means by a steam tug or otherwise to move his timber across the lake or body of water with expedition. Moving timber across lakes, etc.

(2) The Minister may by his order in writing, direct what kind of power or appliance shall be used in bringing timber across such lake or body of water from the place of entrance to the outlet. Minister may order use of power.

(3) An order made by the Minister under this section shall take effect upon its publication in *The Ontario Gazette*, and any person contravening or neglecting to obey the terms of the order shall on summary conviction incur a penalty not exceeding \$500. R.S.O. 1927, c. 43, s. 27. Enforcement of order.

#### OBSTRUCTIONS IN LAKES AND RIVERS.

**28.**—(1) Every person who cuts and fells, and the employer of every person who cuts and fells any tree into any lake or river, down which timber is usually floated, or upon such parts of the banks of it as are usually overflowed in the spring, summer or autumn freshets, without lopping off the branches of such tree and cutting up the trunk into lengths of not more than eighteen feet before the tree is allowed to be floated or cast into the lake or river shall for every such offence on summary conviction incur a penalty not exceeding \$10. Penalty for not lopping off branches of trees, etc.

(2) Subsection 1 shall not apply to timber prepared for transportation to market. R.S.O. 1927, c. 43, s. 28. Exception.

**29.**—(1) No person shall throw, and no owner or occupier of a mill shall suffer or permit to be thrown into any lake or river slabs, bark, stumps, roots, shrubs, waste wood, leached ashes, sawdust or other refuse from any saw mill and no person shall fell or cause to be felled into or across a river any tree and allow it to remain in or across such river. Prohibition against throwing refuse into lake or river, etc.

(2) For every contravention of subsection 1 the person offending shall on summary conviction incur a penalty not exceeding \$20 and not less than twenty cents for each day during which the obstruction continues over and above all damages arising therefrom. Penalty.

(NOTE: See R.S.C., c. 140, as to sawdust in rivers and streams.)



When  
damages  
may be  
assessed;

(3) Where damage to private property is caused by a contravention of this section the damages may, at the request of the person aggrieved, be assessed by the convicting magistrate and included in the conviction when such damages together with the penalty imposed do not exceed \$20.

and paid  
to person  
aggrieved.

(4) Where damages are so assessed the same shall be paid to the person aggrieved.

Exception.

(5) This section shall not apply to the River St. Lawrence or the River Ottawa.

As to  
obstructions  
not wilful.

(6) No such obstruction happening without the wilful default of the person by whom it is caused, or in the *bona fide* exercise of his rights, shall subject him to the penalty unless he makes default in removing the obstruction after notice and reasonable time afforded for that purpose.

When  
section not  
to apply.

(7) This section shall not apply to a dam, weir or bridge erected in, across or over a lake or river, or to anything done *bona fide* in or for erecting the same, or to any tree cut down or felled across a river for the purpose of being used as a bridge from one side of it to the other, if such dam, weir, bridge or tree does not impede the flow of water or the floating of timber. R.S.O. 1927, c. 43, s. 29.

#### DISCRETIONARY POWERS OF COURT.

Refusal or  
granting of  
injunction on  
terms, etc.

**30.**—(1) Where in an action or other proceeding a person claims, and but for this section would be entitled to, an injunction against the owner or occupier of a sawmill for an injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing or depositing of any sawdust or other mill refuse from the sawmill or from it and other saw-mills into any lake or river, the court or judge may refuse to grant an injunction if it is proved that having regard to all the circumstances, and taking into consideration the importance of the lumber trade to the locality in which the injury, damage or interference takes place, and the benefit and advantage, direct and consequential, which such trade confers on that locality and on the inhabitants of it, and weighing the same against the private injury, damage or interference complained of, it is on the whole proper and expedient not to grant the injunction, or the court or judge may,—

(a) grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject

to such limitations or restrictions as may be deemed proper;

- (b) in lieu of granting an injunction, direct the person against whom the injunction is claimed to take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of as may be deemed proper.

(2) Nothing in subsection 1 shall affect any right of the person claiming the injunction to damages against the owner or occupier of the saw mill for any such injury, damage or interference. Right to damages not affected.

(3) Where damage from the same cause continues the person entitled to the damages may apply from time to time in the same action for the assessment of subsequent damages or for any other relief to which by subsequent events he may from time to time become entitled. Assessment of subsequent damages.

(4) This section shall apply whether the injury, damage or interference is or is not a continuing one, and whether the person claiming the injunction is a plaintiff in the action or other proceeding, or is a defendant proceeding by way of counter-claim. Application of section.

(5) This section shall not apply where, in the opinion of the court or judge, the injury, damage or interference complained of is of such a nature that it cannot be adequately compensated for by the awarding of damages. R.S.O. 1927, c. 43, s. 30. Exception.

## PART IV.

### TIMBER SLIDE COMPANIES.

**31.** In this Part "works" shall mean a dam, slide, pier, boom or other work constructed or proposed to be constructed in or upon a lake or river in order to facilitate the floating of timber down such lake or river and any improvements made or proposed to be made to the floatability of a lake or river by the blasting of rocks or dredging or the removal of shoals or other impediments or otherwise. R.S.O. 1927, c. 43, s. 31.

**32.** A company may be incorporated under *The Companies Act* for the purpose of acquiring or constructing and maintaining and operating works upon any lake or river in Ontario, and every such company shall thereupon become subject to all the provisions of this Part. R.S.O. 1927, c. 43, s. 32. Powers to be granted to companies. Rev. Stat., c. 251.

Application  
for letters  
patent.

**33.** The application for the letters patent shall give,—

- (a) a detailed description of the works proposed to be undertaken and an estimate of their cost;
- (b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the lake or river yearly after the works have been completed. R.S.O. 1927, c. 43, s. 33.

When letters  
patent may  
be issued.

**34.** The letters patent incorporating the company for any of the purposes mentioned in section 32 shall not be issued until proof has been furnished to the Minister,—

- (a) that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) that notice of the application for the letters patent has been served upon all timber licensees and other persons known to be interested in the works proposed to be constructed;

nor until approval of the proposed work has been obtained under Part I, and the Minister has certified to the Provincial Secretary that, in his opinion, it is proper they should be issued. R.S.O. 1927, c. 43, s. 34.

Rate of  
dividend.

**35.** The Lieutenant-Governor in Council may, in the letters patent, state a rate of dividend, not exceeding twelve per centum per annum, which the company shall be at liberty to pay to the shareholders, if the revenues of the company otherwise justify such payment. R.S.O. 1927, c. 43, s. 35.

Limitation  
of com-  
pany's  
existence.

**36.** The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the letters patent. R.S.O. 1927, c. 43, s. 36.

Property  
vesting in  
the Crown  
on expiration  
of company's  
existence.

**37.** Upon the expiration of the period limited for the existence of the company all the works constructed by the company shall become the property of His Majesty for the public uses of Ontario, and shall be under the control of the Department of Lands and Forests, and the company, or the shareholders thereof, shall have no right to compensation therefor. R.S.O. 1927, c. 43, s. 37.

**38.** Notwithstanding the expiration of the period limited for the existence of the company it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets, and distributing the same amongst its shareholders; and the company may, for those purposes, sue and be sued as if the period of its corporate existence had not expired; but after such period the words "in liquidation" shall be added to the name of the company and shall be a part of such name. R.S.O. 1927, c. 43, s. 38.

Company's  
existence to  
continue for  
the purpose  
of winding  
up.

**39.** No distribution of capital shall be made under section 38 until three years after the expiration of the period limited for the existence of the company, but this shall not prevent the distribution amongst the shareholders of the annual profits received from investments, and after such three years section 94 of *The Companies Act* shall not apply. R.S.O. 1927, c. 43, s. 39.

Distribution  
of capital  
and profits.

Rev. Stat.,  
c. 251.

**40.** The directors of the company incorporated shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying—

Yearly re-  
port to the  
Minister.  
Contents.

- |  |   |
|--|---|
| (a) the cost of the works;   | Cost of<br>work.  |
| (b) the amount of all money expended;  | Money<br>expended.  |
| (c) the amount of the capital stock, and the amount paid in;   | Capital<br>stock.   |
| (d) the whole amount of tolls expended on the works;   | Tolls ex-<br>pended on<br>work.                                   |
| (e) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;  | Tolls<br>received.  |
| (f) the amount of dividends paid;  | Dividends<br>paid.  |
| (g) the amount expended for repairs;   | Expenditure<br>for repairs.                                       |
| (h) the amount of the debts due by the company, stating the objects for which they were respectively incurred;   | Indebtedness<br>of company.                                       |
| (i) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof. R.S.O. 1927, c. 43, s. 40. | Detailed<br>description<br>of extensions<br>or improve-<br>ments. |



Books of  
account.

**41.** The company shall keep proper books of account containing full and true statements of the

- (a) financial transactions of the company;
- (b) assets of the company;
- (c) sums received and expended by the company and the matters in respect of which the receipt or expenditure took place; and
- (d) credits and liabilities of the company;

and such books shall be at all times open to the inspection and examination of any shareholder. R.S.O. 1927, c. 43, s. 41.

Rights of  
expropria-  
tion.

**42.**—(1) The company shall have the right to expropriate any land, right or easement requisite for the purpose of its undertaking, and the amount of compensation therefor shall be determined by arbitration.

Ascertaining  
compensa-  
tion.

(2) In ascertaining the amount of the compensation due regard shall be had to the benefits which will accrue to the person claiming compensation from the construction of the intended works. R.S.O. 1927, c. 43, s. 42.

What to be  
considered.

Interference  
with prop-  
erty of  
others.

**43.** No company shall construct its works over or upon or otherwise interfere with or injure any private property or the property of His Majesty, without first having obtained the consent of the owner or occupier thereof, or of His Majesty, except as is in this Part provided. R.S.O. 1927, c. 43, s. 43.

If works  
erected by  
others be  
assumed by  
the com-  
pany, how  
compensa-  
tion to be  
made.

**44.**—(1) If there is already established by any person, other than a company formed under this Part or under any Act of this Legislature, any works on any lake or river for the improvement of which a company is formed under this part, such company may with the approval of the Minister take possession of the works, and the owners thereof, or, if the works have been constructed on the property of His Majesty, the person at whose cost they have been constructed, shall be entitled to compensation for the value of the works, either in money or in stock of the company, at the option of the owner or the person at whose cost the works were constructed, and may become a shareholder in the company for an amount equal to the value of the works, such value to be ascertained by arbitration.

Formalities  
to be ob-  
served by  
company  
acquiring  
existing  
works.

(2) Where the company purchases or takes possession of the works, and does not make or construct any other works than those so acquired, the company shall furnish the Minister with a detailed description of such works and the amount of the purchase price or compensation. R.S.O. 1927, c. 43, s. 44.



**45.**—(1) Nothing herein shall authorize a company formed under this Part to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber, and no company formed under this Part shall commence any work which interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

Mill sites,  
etc., not to  
be taken  
without the  
consent of  
the owner.

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company.

Registering  
consent  
or award.

R.S.O. 1927, c. 43, s. 45.

**46.**—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the application for the letters patent, and for the completion of which the company is incorporated; in default of which the company shall be liable to forfeit the right to all the corporate and other powers and authority which it has acquired, and the Attorney-General may cause proceedings to be taken in the name of His Majesty to set aside the charter by serving notice upon the company, and the Lieutenant-Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers shall cease and determine at a date to be named in the Order-in-Council.

Time for  
completion  
of works.

(2) From and after such date all the corporate powers of the company shall cease and determine unless, prior to the taking of proceedings by the Attorney-General, further time is granted by the Minister, or the completion of the works appears to be unnecessary and is dispensed with by him.

Cessor of  
corporate  
powers.

(3) If in the opinion of the Minister the company has abandoned for one year any works completed by it so that the same are not in sufficient repair and cannot be used for the purpose for which they were undertaken, the Minister may by his order in writing, declare the corporate powers of the company shall cease and determine, to the extent set out in such order.

Default in  
completing  
works.

**47.** Any two companies formed for the construction of works on contiguous waters may unite and form one consolidated company on such terms as to them seem meet, and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and when issued the consolidated company may exercise and shall enjoy all the

When  
companies  
may be  
united.

rights and shall be subject to all the liabilities of other companies formed under this Part, and which the separate companies had and enjoyed or were subject or liable to before their union. R.S.O. 1927, c. 43, s. 47.

When the Lieutenant-Governor in Council may declare a company dissolved.

48. Whenever the Lieutenant-Governor in Council deems it expedient for the public service he may declare any company formed under this Part to be dissolved, and may declare all the works of such company to be public works upon payment to such company of the then actual value of the works to be determined in accordance with the provisions of *The Public Works Act*. R.S.O. 1927, c. 43, s. 48.

Rev. Stat., c. 54.

Letters Patent may limit term of existence of certain companies.

Rev. Stat., c. 251.

49. Where a company incorporated under chapter 153 of the Revised Statutes of 1877, or under chapter 68 of the Consolidated Statutes of Canada, applies for the issue of letters patent under *The Companies Act* letters patent may, subject to the approval of the Minister, be issued conferring upon the company any of the powers authorized by this Part, and by such letters patent the term of existence of the said company may be limited and the company shall be subject to the provisions of this Part. R.S.O. 1927, c. 43, s. 49.

Extension of existence of company by supplementary letters patent.

50.—(1) The term of existence of any company incorporated for a limited period may be extended for such a number of years as the Lieutenant-Governor in Council may, previous to the expiry of such period, direct.

Extension of charter after expiry of term of company's existence.

(2) Where the term of existence of any company incorporated for a limited period has expired but the company has continued to carry on business and it appears to the Lieutenant-Governor in Council that the company has acted in good faith, the Lieutenant-Governor in Council, notwithstanding the expiry of such period, may, by supplementary letters patent, extend the term of existence of the company as from the date of the expiry, and thereupon the company shall be deemed to have continued in existence from such date and the works constructed by the company shall not be deemed to have become the property of His Majesty, but to have remained vested in the company for the period named in such supplementary letters patent.

Issue of supplementary letters patent for extensions or improvements.

(3) Where any extension or improvement of the works or any new works proposed to be undertaken, are approved by the Minister supplementary letters patent may be issued authorizing the construction of such extension or improvement or such new works as the case may be. R.S.O. 1927, c. 43, s. 50.

PART V.

TOLLS.

51. In this Part,—

Interpre-  
tation.

(a) “operator” shall mean owner or occupier of the “Operator.” works;

(b) “works” shall mean works as defined by Part IV “Works.” which have been constructed. R.S.O. 1927, c. 43, s. 51.

52. The operator may demand and receive the lawful <sup>Right to tolls.</sup> tolls upon all timber passing through or over such works, and shall have free access to such timber for the purpose of measuring or counting it. R.S.O. 1927, c. 43, s. 52.

53.—(1) In each year, prior to the 1st day of March, the operator shall publish once a week for four successive weeks <sup>Publication of schedule of tolls.</sup> in a newspaper published in the county or district in which the works are situate, a schedule of the tolls proposed to be charged together with a notice stating that on a day and hour named he will apply to a judge of such county or district for the approval of such tolls.

(2) Before publishing the schedule of tolls the operator shall apply to a judge of such county or district to fix the time for <sup>Time for hearing application.</sup> the hearing of the application so that it may be inserted in the notice, and such judge shall at the time so fixed, hear the application and approve of the schedule of tolls after making such changes therein as he may think proper.

(3) In fixing the tolls the judge shall have regard to and take into consideration the original cost of the works and im- <sup>Basis on which tolls to be fixed.</sup> provements, the amount required to maintain them and to cover interest upon the original cost, as well as such other matters as under all the circumstances may be deemed just and equitable.

(4) The judge may on such hearing require the production <sup>Production of books of account.</sup> of all books of account of the operator for the purpose of ascertaining the state of the affairs of the operator, and may if he thinks it necessary, appoint some person to inspect such books and make a report to him on the affairs of the operator for the purpose of determining the tolls which should be charged.

No appeal.

(5) The schedule of tolls as approved of by the judge shall be final and binding and there shall be no appeal from his decision.

Publication of tolls as approved.

(6) If the schedule of tolls be amended, then the tolls as so amended shall be published once a week for two successive weeks in a newspaper published in the county or district in which the works or improvements are situate.

Copy of tolls to be sent to Department.

(7) The operator shall forthwith after the schedule of tolls has been approved of by the judge send a copy of it certified by the judge to the Minister so that the same may be filed in the Department of Lands and Forests, and on failure to do so he shall incur a penalty not exceeding \$20. R.S.O. 1927, c. 43, s. 53.

Demanding of owner statement of quantity of timber liable to toll.

**54.**—(1) The operator may demand from the owner of any timber intended to be passed over or through any portion of the works, or from the person in charge of the same, a written statement of the quantity of every kind of timber and of its destination, and of the sections of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, shall be liable to double toll.

When false estimate is given as to quantity liable to toll, extra tolls may be collected.

(2) If any owner or person in charge of such timber knowingly or wilfully returns a larger quantity than it is his intention to pass over or through the works the operator shall be entitled, in addition to any other remedy he may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. R.S.O. 1927, c. 43, s. 54.

May sue for tolls.

**55.** If the tolls are not paid on demand they may be recovered by action. R.S.O. 1927, c. 43, s. 55.

Tolls to be apportioned to the extent of the works used.

**56.** If timber has come through or over part only of the works the owner of the timber shall be liable to pay tolls only for such sections of the whole works as he has made use of if, in the schedule of tolls, the works are divided into sections, and if not, to pay such a portion of the whole tolls as the distance the timber has come through or over the works bears to the whole distance for which the works extend. R.S.O. 1927, c. 43, s. 56.

Lien of operator for tolls.

**57.**—(1) The operator shall have a lien upon the timber passing through or over such works or improvements for the amount of the tolls, ranking next after the lien of the Crown for dues in respect of the timber.



(2) If the tolls are not paid any justice of the peace having jurisdiction within or adjoining the locality in which the works are situate, upon the oath of such operator or of his agent being made that the just tolls have not been paid, shall issue a warrant for the seizure of such timber or so much of it as he may deem sufficient to satisfy the tolls. Seizure of timber for tolls.

(3) The warrant may be directed to any constable or to any person sworn as a special constable for that purpose at the discretion of the justice, and it shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date of the warrant, to sell the timber subject to any lien of the Crown for dues, and out of the proceeds to pay such tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner. Warrant to seize and proceedings thereon.

(4) A warrant shall not be issued after the expiration of one month from the time of the passage of the timber through or over any of the works. R.S.O. 1927, c. 43, s. 57. When warrant not to be issued.

**58.**—(1) The operator may make rules for regulating the safe and orderly floating of timber, over or through the works; but no such rules shall have any force or effect until approved by the Minister who may alter or amend the same before giving his approval, and the Minister may revoke and cancel any rules so made and approved, and from time to time approve of new rules which the operator may make. Rules by operator.

(2) Any person who resists or impedes the operator or any of his servants in the floating of timber through or over any such works, or in carrying out any such rules or resists him or his servants who may require access to any timber to ascertain the just tolls thereon, or in any way molests him or his servants in the exercise of any rights conferred upon them by this Part, shall on summary conviction incur a penalty of not less than \$1 or more than \$10. Penalty.

(3) In any prosecution under this section the summons may be served either personally or by leaving a copy of it at the usual place of abode of the person named in it or with any adult person belonging to the raft to which the person named is attached. Service of summons.

(4) The penalties when collected shall be paid to the operator for his own use. R.S.O. 1927, c. 43, s. 58. Right to penalty.



## PART VI.

## DRIVING OF TIMBER.

Duty of  
persons  
floating  
timber not  
to obstruct  
navigation.

**59.** Any person putting or causing to be put timber into any water for the purpose of floating the same in, upon or down such water shall make adequate provision and put on a sufficient force of men to break, and shall make all reasonable endeavours to break, jams of such timber and clear the timber from the banks and shores of such water with reasonable despatch, and shall run and drive the same so as not unnecessarily to delay or hinder the removal, floating, running or driving of other timber or unnecessarily to obstruct the floating or navigation of such water. R.S.O. 1927, c. 43, s. 59.

Right of  
other persons  
obstructed  
to clear.

**60.** If any person neglects to comply with the provisions of section 59 it shall be lawful for any other person desiring to float, run or drive timber in, upon or down such water, and whose timber would be obstructed by such jams, to cause them to be broken and the timber to be cleared from the banks and shores of such water, and to be floated, run and driven in, upon or down the same. R.S.O. 1927, c. 43, s. 60.

Duty of  
persons  
clearing  
obstruction  
to use due  
care.

Lien.

**61.**—(1) The person who causes such jams to be broken or timber to be cleared, floated, run or driven, pursuant to section 60, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave timber on the banks or shores, and shall have a lien upon the timber in the jam or upon the timber so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of such timber, and may take and keep possession of the same or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending the determination thereof by arbitration.

Idem.

(2) The person taking possession of timber under this section shall use all reasonable care not to take such timber beyond the place of its original destination, if known, but may securely boom and keep possession of the same at or above such place.

Notifying  
owner.

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and if satisfactory security is given for the amount of such charges and expenses possession of the timber shall be given up. R.S.O. 1927, c. 43, s. 61.

**62.** When timber of any person upon or in any water or the banks or shores of such water are so intermixed with timber of another person, that the same cannot be conveniently separated for the purpose of being floated in, upon or down such water, the several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to break jams of such intermixed timber, and to clear the same from the banks and shores of such water with reasonable despatch, and to float, run and drive the same in, upon or down such water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration. R.S.O. 1927, c. 43, s. 62.

Provision when timber of several owners cannot conveniently be separated.

**63.** If any person neglects to comply with the provisions of section 62 it shall be lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency and break jams of such intermixed timber and to clear the same from the banks and shores of such water, and to float, run and drive all such intermixed timber in, upon or down such water. R.S.O. 1927, c. 43, s. 63.

Provision when owner of any portion of timber is in default.

**64.**—(1) The person supplying such deficiency and causing such jams to be broken, or such intermixed timber to be cleared, floated, run or driven, pursuant to section 63, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave timber on the banks or shores, and shall have a lien upon the timber owned or controlled by the person guilty of such neglect for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming, and keeping possession of such intermixed timber, and may take and keep possession of such timber or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of such charges and expenses pending the determination thereof by arbitration.

Lien on timber.

(2) The person taking possession of timber under this section shall use all reasonable care not to take such timber beyond the place of its original destination, if known, but may securely boom and keep possession of the same at or above such place.

Duty of holder.

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and if satisfactory security is given for the amount of such proportion of charges and expenses possession of the timber shall be given up. R.S.O. 1927, c. 43, s. 64.

Notifying owner.

Right of  
owner to  
separation  
of timber.

**65.** Where timber of any person upon or in any water or the banks or shores of such water is intermixed with timber of another person any of the persons whose timber is intermixed may at any time during the drive require his timber to be separated from the other timber at some suitable and convenient place, and after such separation he shall secure the same at his own cost and expense in such manner as to allow free passage for such other timber; but when any timber reaches its place of original destination, if known, so intermixed the same shall be there separated from the other timber, and after such separation each owner shall secure the same at his own cost and expense. R.S.O. 1927, c. 43, s. 65.

Expenses of  
separation  
to be shared.

**66.** The several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to make the separation; the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration. R.S.O. 1927, c. 43, s. 66.

Provision  
when owner  
does not  
provide for  
his share of  
work.

**67.**—(1) If any person neglects to comply with the provisions of section 66 it shall be lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency, and the timber owned or controlled by the person guilty of such neglect shall be subject to a lien in favour of the person supplying the deficiency for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such timber or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending determination of the amount by abitation.

Duty of  
holder.

(2) The person taking possession of timber under this section shall use all reasonable care not to take such timber beyond the place of its original destination, if known, but may securely boom and keep possession of the same at or above such place.

Notifying  
owner.

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and if satisfactory security is given for the amount of such proportion of charges and expenses possession of the timber shall be given up. R.S.O. 1927, c. 43, s. 67.

Form of  
security.

**68.** The security referred to in sections 61, 64 and 67 may be by bond (Form 1) or by deposit of money, or in such other way as the parties may agree upon. R.S.O. 1927, c. 43, s. 68.

**69.** If it is determined by arbitration that any person acting under the assumed authority of this Part has without just cause taken possession of or detained or caused to be taken possession of or detained timber of another person, or has after offer of security which the arbitrator may think should have been accepted, detained such timber, or has through want of reasonable care left timber of another person on the banks or shores of any lake or river, or has taken timber of another person beyond the place of its original destination contrary to the provisions of sections 61, 64 and 67, such first mentioned person shall pay to such last mentioned person such damages as the arbitrator may determine. R.S.O. 1927, c. 43, s. 69.

Damages when timber wrongfully detained.

**70.** The lien given by sections 61, 64 and 67 shall be subject to the lien, if any, of any person for tolls for the use of any works or improvements made use of in running or driving timber. R.S.O. 1927, c. 43, s. 70.

Lien under ss. 61, 64 and 67, subject to lien for tolls.

**71.** Nothing in this Part shall affect the lien or rights of the Crown upon or in respect of any timber. R.S.O. 1927, c. 43, s. 71.

Rights of Crown not affected.

**72.** All claims, disputes and differences arising from any act or omission under this Part or by reason of failure to perform any duty or obligation imposed by this Part shall be determined by arbitration and not by action. R.S.O. 1927, c. 43, s. 72.

Arbitration.

**73.** The person claiming that another person has not complied with the provisions of this Part, or claiming payment of any charges or expenses under this Part, or claiming a lien upon any timber, or claiming damages under section 69, shall give to such other person notice in writing stating the substance and amount of the claims made. R.S.O. 1927, c. 43, s. 73.

Notice of claim.

**74.** The person on whom a claim is made, at any time before the arbitration is entered upon or with leave of the arbitrator during the arbitration, may give the claimant notice in writing by way of counter-claim, stating the substance of any claim arising under this Part which such person may have against the claimant, and such counter-claim, unless barred under section 77 shall be determined in the arbitration. R.S.O. 1927, c. 43, s. 74.

Counter-claim.

**75.—(1)** The person having a lien upon timber by virtue of this Part may with the approval of the arbitrator sell such timber or a sufficient part thereof in order to realize the

Sale by person having lien.



amount of such lien, and of the costs, charges and expenses connected with the sale.

Direction by arbitrator.

(2) The arbitrator shall determine either by the award or by a separate document the time, place and manner of such sale, and may from time to time give directions in writing respecting such sale, and the realization of such lien and of the costs, charges and expenses connected therewith. R.S.O. 1927, c. 43, s. 75.

Finality of award.

**76.** The award and directions in writing of the arbitrator shall be final and binding and shall not be subject to appeal. R.S.O. 1927, c. 43, s. 76.

Limitation of time for making claims.

**77.**—(1) All claims arising under this Part shall be made within one year after the same have arisen otherwise they shall be barred; but in the event of such claims arising between the same parties in two successive seasons the same shall be so made within one year after the last of such claims has arisen.

Exception.

Counter-claim.

(2) Where any claim is submitted to arbitration and a counter-claim is set up such counter-claim shall be deemed to have been brought at the date of the service of the claim. R.S.O. 1927, c. 43, s. 77.

Exemption of territory from operation of Part.

**78.** The Lieutenant-Governor in Council may from time to time by proclamation published in *The Ontario Gazette* declare that any part of Ontario or any water therein shall, until further proclamation, be exempt from the operation of this Part, and thereupon the same shall be exempt accordingly. R.S.O. 1927, c. 43, s. 78.

Bringing exempted territory again under Part.

**79.** Any part of Ontario or any water therein exempted by proclamation from the operation of this Part may, by proclamation published in *The Ontario Gazette*, be again brought within its operation until further proclamation and so on from time to time. R.S.O. 1927, c. 43, s. 79.

## PART VII.

### WATER PRIVILEGES.

Application.

**80.** This Part shall be subject to the provisions of Parts I and II. R.S.O. 1927, c. 43, s. 80.

Meaning of "occupied water privilege."

**81.** In this Part "Occupied Water Privilege" shall mean a mill privilege, or water power, which has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or



for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R.S.O. 1927, c. 43, s. 81.

**82.** Subject to the provisions of section 87 an occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Part without the consent of the owner. R.S.O. 1927, c. 43, s. 82.

Protection of occupied water privilege.

**83.**—(1) A person desiring to use or improve a water privilege, of which or a part of which he is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes by erecting a dam and creating a pond of water, increasing the head of water in any existing pond or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel, constructing any raceway or other erection or work which he may require in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, shall have the right to enter upon any land which he may deem necessary to be examined and to make an examination and survey thereof, doing no unnecessary damage and making compensation for the actual damage done.

Right of owner of water privilege to enter on and survey lands.

(2) If, upon an application to a judge of the county or district court, as hereinafter provided, such person obtains authority he may take, acquire, hold and use such portions of the land so examined or such rights over or in respect thereof as the judge may deem necessary for the completion, improvement or maintenance of the water privilege and works in connection therewith.

And after order by judge to acquire lands for improving water privileges.

(3) The building of a transmission line for the transmission of electrical power or energy generated by an occupied water privilege shall be deemed to be a use or improvement of a water privilege within the meaning of this section. R.S.O. 1927, c. 43, s. 83.

Transmission line.

**84.**—(1) A person desiring to exercise the powers herein- before mentioned, or any of them, shall cause:—

Proceedings.

(a) surveys and levels to be made and taken of the land sought to be taken, used or otherwise affected, and a map or plan thereof to be prepared;

(b) a statement to be prepared giving

- (i) a general description of the land to be taken and of the powers intended to be exercised with regard to any land, describing it;
  - (ii) the names of the owners and occupiers of the land, so far as they can be ascertained; and
  - (iii) everything necessary for the right understanding of the map or plan, including a registrar's certified abstract of the titles to all the land to be affected by the application;
- (c) the map or plan and the statement to be filed in the office of the clerk of the county or district court of the county or district wherein the land or part thereof is situate.

Application  
to judge.

(2) He may then apply to the judge of such county or district court for an order empowering him to exercise the powers or such of them as he may desire. R.S.O. 1927, c. 43, s. 84.

Public notice  
of applica-  
tion.

**85.** In addition to any other notice which the judge may direct to be given, public notice of the application stating the time and place when and where the same is to be heard, shall be inserted for such period as the judge may direct in a newspaper published in the county or district or one of the counties or districts where the proposed works are to be constructed or any of the land affected is situate. R.S.O. 1927, c. 43, s. 85.

Order, when  
deemed  
proper and  
just.

**86.** If the judge is of the opinion that the allowance of the application in whole or in part is in the public interest and is proper and just under all the circumstances of the case he may make an order empowering the applicant to exercise such of the powers as the judge may deem expedient, for such time and on such terms and conditions as he may determine, and the land affected shall be described in the order: R.S.O. 1927, c. 43, s. 86.

Order as to  
privilege not  
in actual  
use.

**87.** Where evidence is produced which satisfies the judge that the owner of a water privilege which has been but is not then in use for any of the purposes mentioned in subsection 1 of section 83 is holding the same with the intention of again using it for mechanical, manufacturing, milling or hydraulic purposes the judge may make an order fixing the time within which the necessary works for the actual use of such water privilege shall be constructed and actually used, and, unless such evidence is produced or the terms of such order are

complied with, the water privilege shall not be deemed to be an occupied water privilege within the meaning of this Part. R.S.O. 1927, c. 43, s. 87.

**88.** Where two or more persons claim to exercise the powers conferred by this Part in respect of the same water privilege, or any part thereof, the judge may impose such terms as he may deem just, and may also limit a time within which the person whose application he allows shall construct the necessary works and actually use such water privilege. R.S.O. 1927, c. 43, s. 88.

Case of two  
or more  
claimants.

**89.** No pond shall be authorized to be made or enlarged so as to exceed twenty acres in extent unless the judge for special reasons otherwise directs. R.S.O. 1927, c. 43, s. 89.

Limit of  
size of  
ponds.

**90.**—(1) The judge shall in the order state the height to which the water may be raised and fix the extent of the pond.

What to be  
stated in  
order.

(2) The judge shall also assess the sum to be paid as the value of the land to be taken or used or of the powers to be exercised, and the damages, if any, to be paid as compensation by the applicant for any injury which may be occasioned by the proposed works, and may make such order as to costs as he may deem just.

Compensa-  
tion for  
injury.

(3) The costs shall be the same as in ordinary proceedings in the county court and shall be taxed by the clerk. R.S.O. 1927, c. 43, s. 90.

Scale and  
taxation.

**91.**—(1) The sums so assessed and the costs shall be paid to the persons entitled thereto, or into the Supreme Court as the judge may direct, before the powers or any of them are exercised and within sixty days after the order is made.

Payment of  
amount  
awarded.

(2) If the same are not so paid the order may be enforced under *The Judges' Orders Enforcement Act*, or, at the option of any of the persons entitled to receive a sum so assessed, may, on application to the judge, be set aside and vacated as to him, and in such case the judge may make such order as to the costs of the proceedings and of the application as he may deem just. R.S.O. 1927, c. 43, s. 91.

Enforcing or  
setting aside  
order.

Rev. Stat.,  
c. 123.

**92.** Upon the payment of the sums assessed and costs the applicant shall be entitled to a conveyance, to be settled by the judge in case of a dispute, of the land or rights mentioned in the order in respect of which payment is so made, and shall be further entitled to have and exercise such of the

Conveyance  
of land.

powers mentioned in section 83 as he is authorized by the order to exercise. R.S.O. 1927, c. 43, s. 92.

Registration  
of judge's  
order.

**93.** For the purpose of registration the order shall be deemed a judgment of the court to which the judge belongs. R.S.O. 1927, c. 43, s. 93.

Judge's  
powers.

**94.** The Judge shall have all the powers possessed by him or by a county or district court in an action. R.S.O. 1927, c. 43, s. 94.

Judge's fees.

**95.** The Judge shall be entitled for his services to the like fees as are allowed to arbitrators. R.S.O. 1927, c. 43, s. 95.

Appeal from  
county  
judge.

**96.**—(1) By leave of a judge of the Supreme Court an appeal shall lie from the order of the judge on any application under this Part to the Court of Appeal.

Review of  
decision.

(2) On such appeal the decision of the judge upon questions of fact and all other questions shall be open to review.

Application  
for leave to  
appeal.

(3) The application for leave to appeal shall be made within ten days from the day on which the order appealed from is made, or within such further time as a judge of the Supreme Court may allow.

Terms.

(4) The judge to whom the application is made shall determine the time within which the appeal shall be set down to be heard, the persons upon whom notice of the appeal shall be served and all such other matters as he may deem necessary for the most speedy and least expensive determination of the appeal.

Effect of  
non-compli-  
ance with  
conditions  
of appeal.

(5) If the appeal is not set down to be heard within the time limited, or if any other condition imposed is not complied with, the appeal shall, unless otherwise ordered by a judge of the Supreme Court, be deemed to have been abandoned.

Practice on  
appeal.

(6) The practice and procedure upon the appeal, except so far as is herein, or by the judge to whom the application for leave is made, otherwise provided, shall be the same as upon an appeal from a county court. R.S.O. 1927, c. 43, s. 96.

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FORM 1.

(Section 68)

Know all men by these presents that we (*here insert names of obligors, being the owner of the timber and at least one sufficient surety or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*) are held and firmly bound unto A. B. (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$ \_\_\_\_\_, to be paid to the said A. B., his executors, administrators and assigns, for which payment well and truly to be made we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this \_\_\_\_\_, 19 \_\_\_\_\_.

Whereas the said A. B., claiming to act under the authority of Part VI of *The Lakes and Rivers Improvement Act* has taken possession of certain (timber,) owned or controlled by \_\_\_\_\_ and claims a lien thereon for the sum of \$ \_\_\_\_\_, under the provisions of section 61, 64 or 67, (*as the case may be*) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act, and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said \_\_\_\_\_, his executors or administrators do pay to the said A. B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Act, to be payable to the said A. B., his executors, administrators or assigns for charges and expenses, and also such sum as may become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

C. D.      SEAL.  
F. G.      SEAL.

Signed, sealed and delivered }  
in the presence of }  
X.Y. }



## CHAPTER 46.

## The Town Sites Act.

Right of  
Crown to  
one-quarter  
of lots.

**1.** Subject to the provisions of section 5, where any lot or parcel of Crown land sold, leased, located or staked out under any Act of this Legislature subsequent to the 19th day of March, 1910, is laid out as a town site or subdivided into lots or parcels for town, village, park or summer resort purposes, one-quarter in acreage of all the lots or parcels shown on such plan or subdivision shall become the property of and be vested in the Crown. R.S.O. 1927, c. 44, s.1.

Method of  
selection.

**2.** The land to be so vested shall be ascertained as nearly as practicable as follows:—The Minister of Lands and Forests shall first select one lot or parcel, and the owner shall then select three lots or parcels and so on in turn, the Minister selecting one and the owner three until the division is made. R.S.O. 1927, c. 44, s. 2.

Showing  
selection  
on plan.

**3.** Every such plan or subdivision shall show the selection so made by marking upon each lot or parcel selected by the Minister, the word "Crown," and shall be approved of by the Lieutenant-Governor in Council and signed by the Minister of Lands and Forests. R.S.O. 1927, c. 44, s. 3.

Approval.

Conditions  
precedent to  
registration  
and title.

**4.** No such plan or subdivision and no instrument referring thereto shall be registered in any registry office or land titles office, nor shall any person acquire any title to any lot or parcel after such division until the plan or subdivision has been so approved and signed. R.S.O. 1927, c. 44, s. 4.

Commuting  
Crown's  
rights in  
townsite for  
money  
payment.

**5.** Where it is deemed advisable so to do the Lieutenant-Governor in Council may agree to accept a money payment in lieu of the rights of the Crown under this Act. R.S.O. 1927, c. 44, s. 5.

Ores and  
minerals.

Rev. Stat.,  
c. 47.

**6.** Where any land so laid out as a town site, or so subdivided has been sold, leased, located or staked out under *The Mining Act*, the ores and minerals under the surface of the land thus vested in the Crown, shall remain the property of and be vested in the person by whom the said town site is laid out or land so subdivided or any person to whom he has conveyed his rights. R.S.O. 1927, c. 44, s. 6.

7. The land which becomes vested in the Crown under this Act may be sold, leased or otherwise disposed of in such manner and under such regulations as the Lieutenant-Governor in Council may from time to time prescribe. R.S.O. 1927, c. 44, s. 7.

Disposing of  
lots selected  
by Crown.

8. The presentation to the local master of titles for registration of any such plan signed by the Minister of Lands and Forests shall be a sufficient authority for the local master to enter His Majesty as owner of the lots marked as selected for the Crown as aforesaid. R.S.O. 1927, c. 44, s. 8.

Entry of  
Crown as  
owner on  
land titles  
register.

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## CHAPTER 47.

## The Mining Act.

## INTERPRETATION.

Interpre-  
tation.

## 1. In this Act:

"Agent."

- (a) "Agent" where it occurs in Parts VIII and IX shall mean any person having, on behalf of the owner, the care or direction of a mine or of any part thereof;

"Court."

- (b) "Court" shall mean Mining Court;

"Crown  
lands."

- (c) "Crown lands" shall not include land in the actual use or occupation of the Crown, or of any Public Department of the Government of Canada, or of Ontario, or of any officer or servant thereof, or under lease or license of occupation from the Crown or the Minister of Lands and Forests or the Minister of Mines, or set apart or appropriated by lawful authority for any public purpose or vested in the Temiskaming and Northern Ontario Railway Commission;

"Depart-  
ment."

- (d) "Department" shall mean Department of Mines;

"Deputy  
Minister."

- (e) "Deputy Minister" shall mean Deputy Minister of Mines;

"In place."

- (f) "In place" when used in reference to mineral shall mean in the place or position where originally formed in the solid rock, as distinguished from being in loose, fragmentary or broken rock, boulders, float, beds or deposits of gold or platinum-bearing sand, earth, clay, or gravel, or placer; R.S.O. 1927, c. 45, s. 1, cls. (a-f).

"Judge."

- (g) "Judge" shall mean Judge of the Mining Court;

"Licensee."

- (h) "Licensee" shall mean a person, mining partnership or company holding a miner's license issued under this Act or any renewal thereof;

- (i) "Machinery" shall include steam and other engines, <sup>"Machinery."</sup>boilers, furnaces, stamps and other crushing apparatus, winding and pumping gear, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine;
- (j) The noun "mine" shall include any opening or <sup>"Mine,"</sup>excavation in, or working of, the ground for the <sup>meaning of.</sup>purpose of winning, opening up or proving any mineral or mineral-bearing substance, and any ore body, mineral deposit, stratum, soil, rock, bed of earth, clay, sand, gravel or cement, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine, and also for the purposes of Parts VIII and IX, any quarry, excavation or opening in the ground made for the purpose of searching for or removal of mineral, soil, rock, quartz, limestone, earth, clay, sand, gravel or cement and any roast-yard, smelting furnace, mill, work or place used for or in connection with crushing, reducing, smelting, refining, or treating any of said substances;
- (k) The verb "mine" and the word "mining" shall <sup>"Mine,"</sup>include any mode or method of working whereby <sup>"mining."</sup>the soil or earth or any rock, stone or quartz may be disturbed, removed, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether the same may have been previously disturbed or not, and also for the purposes of Parts VIII and IX of this Act all operations and workings mentioned in clause (j);
- (l) "Minerals" shall include gold and silver, all rare and <sup>"Minerals."</sup>precious metals and coal, natural gas, oil and salt;
- (m) "Mining lands" shall include lands and mining rights <sup>"Mining</sup>patented or leased under or by authority of any <sup>lands."</sup>statute, regulation, or Order-in-Council, respecting mines, minerals or mining, and also lands or mining rights located, staked out, used or intended to be used for mining purposes;
- (n) "Mining rights" shall mean the ores, mines and <sup>"Mining</sup>  
<sup>rights."</sup>

minerals on or under any land where the same are or have been dealt with separately from the surface;

- "Minister." (o) "Minister" shall mean Minister of Mines, except where a contrary intention appears;
- "Owner." (p) "Owner" when used in Parts VIII and IX of this Act shall include every person, mining partnership, and company being the immediate proprietor or lessee or occupier of a mine, or of any part thereof, or of any land located, patented or leased as mining lands but shall not include a person, or a mining partnership or company receiving merely a royalty, rent or fine from a mine or mining lands, or being merely the proprietor of a mine or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals;
- "Patent." (q) "Patent" shall mean a grant from the Crown in fee simple or for any less estate made under the Great Seal;
- "Pre-scribed." (r) "Prescribed" shall mean prescribed by this Act or by Order-in-Council or by rule or regulation made under the authority of this Act;
- "Recorder." (s) "Recorder" shall mean the mining recorder of the mining division in which the land in respect of which an act, matter or thing is to be done are situate;
- "Regulation." (t) "Regulation" shall mean a regulation made by the Lieutenant-Governor in Council under the authority of this Act;
- "Shaft." (u) "Shaft" shall include a pit;
- "Surface rights." (v) "Surface rights" shall mean land granted, leased or located for agricultural or other purposes, the ores, minerals and mines whereof or under the surface whereof are reserved to the Crown;
- "Valuable mineral." (w) "Valuable mineral in place" shall mean a vein, lode or deposit of mineral in place appearing at the time of discovery to be of such a nature and containing in the part thereof then exposed such kind and quantity of mineral or minerals in place, other than limestone, marble, clay, marl, peat or building stone, as to make it probable that the



vein, lode or deposit is capable of being developed into a producing mine likely to be workable at a profit. R.S.O. 1927, c. 45, s. 1, cls. (h-x).

#### APPLICATION OF ACT.

**2.**—(1) Nothing herein contained shall affect the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under *The Public Lands Act* or any Act, Order-in-Council or regulation respecting the sale and disposal of such land. R.S.O. 1927, c. 45, s. 2.

Sales, etc., for other purposes not affected. Rev. Stat., c. 33.

(2) Notwithstanding anything contained in this Act, applicants for mining lands who had prior to the 14th day of May, 1906, complied with the provisions of chapter 36 of the Revised Statutes, 1897, or regulations thereunder respecting applications for such lands, and whose applications were pending before the Department on such date, may be granted title to the same under this Act without staking them out as a mining claim or mining claims, and subject to such conditions as regards the quantity of land or performance of work as the Minister may deem proper. 1928, c. 16, s. 4.

Saving as to applications for mining lands made prior to 14th May, 1906.

#### FORMS.

**3.** The Lieutenant-Governor in Council may by regulation prescribe the forms to be used under this Act and until further provision is made the forms prescribed by *The Mining Act of Ontario*, being Revised Statutes of Ontario, 1914, chapter 32, may be continued in use. R.S.O. 1927, c. 45, s. 3.

Forms.

### PART I.

#### DEPARTMENT OF MINES.

**4.** The Department of Mines heretofore established is continued and shall be administered by the Minister of Mines. R.S.O. 1927, c. 45, s. 4.

Department of Mines.

**5.**—(1) A Deputy Minister of Mines shall be appointed by the Lieutenant-Governor in Council and shall perform such duties in connection with mines, mining lands, and the mining industry and other matters as may be assigned to him by the Lieutenant-Governor in Council or by the Minister, and in the absence of the Minister, or in the case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to mines, minerals, mining lands and the mining industry and such other matters as may be so assigned to him.

Deputy Minister of Mines.

Powers  
of Deputy  
Minister.

(2) The Deputy Minister shall have all the powers, rights and authority of an inspector, and such other powers, rights and authority for carrying into effect the provisions of this Act as may be assigned to him by regulation. R.S.O. 1927, c. 45, s. 5.

Adminis-  
tration by  
Minister of  
Mines.

**6.—**(1) All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights, or the mineral industry, shall be administered by the Minister of Mines.

Execution of  
instruments.

(2) All patents, leases, licenses or other instruments of title, and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister of Mines. R.S.O. 1927, c. 45, s. 6.

#### PROVINCIAL GEOLOGIST, ASSAYER, AND INSPECTORS.

Appoint-  
ment and  
duties of  
geologist,  
assayer, and  
inspectors.

**7.—**(1) The Lieutenant-Governor in Council may appoint a Provincial Geologist, a Provincial Assayer and an inspector or inspectors, and such other officers and agents as he may deem necessary, who shall be officers of the Department, and shall perform such duties as may be assigned to them by this Act or by regulation.

Depart-  
mental  
officers.

Geologist to  
be *ex officio*  
inspector.

(2) The Provincial Geologist shall be *ex officio* an inspector. R.S.O. 1927, c. 45, s. 7.

Adminis-  
tration of  
certain Acts  
by Minister  
of Mines.

Rev. Stat.,  
cc. 28, 49, 52,  
48, 50, 53.

**8.** This Act and *The Mining Tax Act*, *The Natural Gas Conservation Act*, *The Unwrought Metal Sales Act*, *The Iron Ore Bounty Act*, *The Well Drillers Act*, and *The Fuel Supply Act* except so far as the last-named Act relates to wood, and any regulations made under any of the said Acts shall be administered by the Minister of Mines. R.S.O. 1927, c. 45, s. 8.

Mining  
recorder.

**9.—**(1) The Lieutenant-Governor may appoint for each mining division a mining recorder, who shall be an officer of the Department.

Where  
mining  
recorder  
absent.

(2) Where a mining recorder is absent, because of illness or for any other reason, the Minister may appoint a competent person to act as recorder *pro tempore*, and such person shall during such time, have all powers and perform all the duties of a mining recorder in the mining division to which he is appointed. R.S.O. 1927, c. 45, s. 9.

**10.** Every recorder shall keep such books for the recording of mining claims, applications and other entries therein as may be directed by the Minister, and such books shall be open to inspection by any person on payment of a fee of ten cents for each claim or application examined, and every recorder shall also keep displayed in his office a map or maps showing the territory included in his mining division and shall mark thereon all claims as they are recorded, and there shall be no charge for examining such map or maps. R.S.O. 1927, c. 45, s. 10.

Books and maps to be kept by recorder.

**11.** Every document filed in the recorder's office shall, during office hours, be open to inspection by any one on payment of the prescribed fee. R.S.O. 1927, c. 45, s. 11.

Right to inspect documents.

**12.** Every copy of or extract from an entry in any of such books, and of any document filed in the recorder's office, certified to be a true copy or extract by the recorder, shall be received in any court as *prima facie* evidence of the matter certified by him without proof of his appointment, authority or signature. R.S.O. 1927, c. 45, s. 12.

Evidence of records.

#### EMPLOYMENT OF EXPERTS, ETC.

**13.** Notwithstanding anything in *The Public Service Act* the Minister may employ any professor, instructor, or other person to investigate the mineral resources of Ontario, or for any work in connection with this Act, and may pay him for such services at such rate as may be agreed upon, out of any money appropriated by the Legislature for that purpose. R.S.O. 1927, c. 45, s. 13.

Employment of professors, etc., to investigate mineral resources. Rev. Stat., c. 15.

#### GENERAL PROVISIONS AS TO OFFICERS

**14.—(1)** No officer appointed under this Act shall directly or indirectly, by himself or by any other person, purchase or become interested in any Crown lands, mining rights or mining claims, and any such purchase or interest shall be void.

Officers not to be interested in Crown lands or mining claims.

**(2)** Any officer offending against the provisions of sub-section 1 shall forfeit his office and shall, in addition thereto, incur a penalty of \$500 for every such offence, to be recovered in any court of competent jurisdiction by any person who sues for the same. R.S.O. 1927, c. 45, s. 14.

Penalty.

**15.** The Lieutenant-Governor in Council may make regulations respecting the offices to be used in common between the Department of Lands and Forests and the Department

Regulations respecting common use of certain offices.

of Mines, and the services to be rendered to either of the said Departments by the other of them, and the officers, clerks, and servants of the Department of Lands and Forests shall render such services to the Department of Mines as may be required of them from time to time, and all maps, books, papers, correspondence, records or other matters or things in the Department of Lands and Forests shall be open to and may be examined by the Minister of Mines or the officers and clerks of the Department of Mines in the discharge of their departmental duties. R.S.O. 1927, c. 45, s. 15.

Certain officers not to be subpoenaed without order of Judge.

**16.**—(1) A subpoena shall not issue out of any court, requiring the attendance of the Deputy Minister, the Judge, the Provincial Geologist, the Provincial Assayer, or any inspector, recorder, or other officer, or the production of any document in the official custody or possession of any of them without an order of the court or a judge thereof, or in matters before the Mining Court without a direction of the Judge.

Privilege as to official information.

(2) The Deputy Minister, the Judge, the Provincial Geologist, the Provincial Assayer, and any inspector, recorder, or other officer, shall not be bound to disclose any information obtained by him in his official capacity which a member of the Executive Council certifies ought not in the public interest to be divulged or cannot without prejudice to the interests of persons not concerned in the litigation be divulged, and all such information shall be privileged. R.S.O. 1927, c. 45, s. 16.

*Ex-officio* justices of the peace.

**17.** The Judge and every inspector shall be *ex officio* a justice of the peace for every county and district in Ontario and a recorder in his division shall be *ex officio* a justice of the peace for the county or district in which any part of his division lies, and it shall not be necessary that they shall possess any residential or property qualification. R.S.O. 1927, c. 45, s. 17.

Appointment of constables by recorder.

**18.**—(1) A recorder may appoint any number of constables not exceeding four, who shall be constables and peace officers for the purposes of this Act, during the terms and within the mining division for which they are appointed.

Fees of constables.

(2) A constable so appointed shall be paid such fees and expenses as may be allowed by the recorder, but such fees shall not exceed \$4 per day for the time certified by the recorder. R.S.O. 1927, c. 45, s. 18.



## MINING DIVISIONS.

**19.**—(1) The Lieutenant-Governor in Council may divide the Province into mining divisions and may alter the number, limits and extent thereof. Mining divisions,—Province to be divided into.

(2) Every Order-in-Council made under this section shall be published in the *Ontario Gazette* and shall take effect from the date of the first publication thereof. R.S.O. 1927, c. 45, s. 19.

**20.** Except as in this Act otherwise specially provided the recorder's office shall be the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under the provisions of this Act, affecting any unpatented mining claim or quarry claim or any right, privilege or interest which may be acquired under the provisions of this Act to or in respect of Crown lands or unpatented mining rights, and all such applications, documents and instruments may, before patent, be filed or recorded in the said office,<sup>6</sup> but after patent, the provisions of *The Registry Act* and of *The Land Titles Act* shall respectively apply. R.S.O. 1927, c. 45, s. 20. Claims and documents to be filed in recorder's office.

**21.** Where any part of the Province is not included in a mining division, or if there is no recorder for a mining division, all applications shall be made to the Department, and all duties and powers of the recorder shall be performed and exercised by the Deputy Minister, and all acts, matters and things which in a mining division are to be done by or before a recorder shall be done by or before the Deputy Minister, and all such acts, matters and things which are to be done in the office of the recorder shall be done at the Department. R.S.O. 1927, c. 45, s. 21. Vacancy in office of recorder.

**22.** Upon the issue of a patent by the Crown of any mining lands or mining rights, the Minister shall give notice thereof to the recorder of the mining division in which the lands included in the patent are situate, and the recorder shall keep in his office a list of all such lands. R.S.O. 1927, c. 45, s. 22. Minister to furnish recorder with list of lands patented.

## SPECIAL MINING DIVISIONS.

**23.**—(1) The Lieutenant-Governor in Council may declare any locality to be a special mining division. Special mining divisions.

(2) Every Order-in-Council made under this section shall be published in the *Ontario Gazette* and shall take effect from the date of the first publication thereof. R.S.O. 1927, c. 45, s. 23. Order-in-Council.



## LICENSES TO MINE AND LICENSE HOLDERS.

License  
required.

**24.**—(1) No person, mining partnership or company not the holder of a miner's license shall prospect for minerals upon Crown lands or land of which mining rights are in the Crown, or stake out, record or acquire any unpatented mining claim, or area of land for boring permit, or acquire any right or interest therein.

Clerks or  
employees  
not to  
require  
license.

(2) A clerk or employee of a licensee performing clerical, manual or other services of like nature shall not be required to be the holder of a miner's license. R.S.O. 1927, c. 45, s. 24.

Who may  
receive  
license.

**25.**—(1) Any person over eighteen years of age and, subject to the provisions of subsection 6, any company incorporated or licensed under the laws of Ontario to transact business or hold lands in Ontario, shall be entitled on payment of the prescribed fee to obtain a miner's license in the prescribed form. R.S.O. 1927, c. 45, s. 25 (1); 1933, c. 33, s. 2 (1).

Date  
and term of  
license.

(2) The license shall be dated on the day of the issue thereof and shall expire at midnight on the 31st day of March then next ensuing.

Effect of  
license,  
non-trans-  
ferable.

(3) The license shall be effectual throughout Ontario but shall not be transferable.

Licenses to  
companies.

(4) Licenses to companies shall be issued only by the Minister or by the Deputy Minister. R.S.O. 1927, c. 45, s. 25 (2-4).

Who  
may issue  
license.

(5) Licenses to individuals may be issued by the Minister or the Deputy Minister or by any recorder. R.S.O. 1927, c. 45, s. 25 (5); 1933, c. 33, s. 2 (2).

Proof  
required  
before  
license to  
company.

(6) A license shall not be issued to a company if it is incorporated under the laws of Ontario unless or until it has satisfied the Minister or the Deputy Minister that it is so incorporated, and if it is not so incorporated, unless or until it has filed with the Department a copy of the license authorizing the company to transact business or hold land in Ontario verified by the prescribed affidavit of an officer of the company.

Licensee  
serving in  
war.

(7) Notwithstanding anything in this section contained the miner's license of the holder of an interest in an unpatented mining claim who has enlisted or enrolled for active service at home or abroad against the King's enemies shall be deemed to be subsisting and in force for the space of six months

after the date of his discharge from military service, or up to and including the 31st day of March following the said date whichever period may be the longer, and forfeiture or loss of rights arising under clause *a* of subsection 1 of section 85 shall be avoided upon the holder renewing the said miner's license as in section 29 provided. R.S.O. 1927, c. 45, s. 25 (6, 7).

**26.** Every miner's license shall be numbered, and shall also be lettered with a letter of the alphabet prescribed by the Minister to indicate the office from which it was issued. Numbering and lettering of licenses. R.S.O. 1927, c. 45, s. 26.

**27.** A miner's license held by a mining partnership or a company shall not entitle any partner, shareholder, officer or employee thereof to the rights or privileges of a licensee. Effect of license to partnership or company. R.S.O. 1927, c. 45, s. 27.

**28.** A person who is not a licensee shall not prospect for minerals or stake out a mining claim, or area of mining land for the purpose of obtaining a boring permit on behalf of a mining partnership or a company. Unlicensed person not to act for partnership or company. R.S.O. 1927, c. 45, s. 28.

**29.—(1)** A licensee shall be entitled to a renewal of his license, in the prescribed form, on production of his license before the expiration thereof and on payment of the prescribed fee. Renewal of license.

(2) Licenses to companies may be renewed by the Minister or the Deputy Minister, and licenses to individuals and to mining partnerships may be renewed by the Minister or the Deputy Minister or by any recorder. Who may issue renewals.

(3) The renewal shall bear date on the 1st day of April and shall be deemed to have been issued and shall take effect immediately upon the expiration of the license of which it is a renewal, or of the last preceding renewal as the case may be. Date and effect of renewal.

(4) The renewal shall bear the same number and letter as the original license and after it comes into effect it shall be deemed to be the license of the licensee. Form. R.S.O. 1927, c. 45, s. 29.

**30.—(1)** If a miner's license is accidentally destroyed or lost, the holder may, on payment of the prescribed fee, obtain a duplicate thereof from the office of the Minister, Deputy Minister or any recorder. Accidental destruction or loss of license.

Substituted  
license.

(2) Every such duplicate shall be marked "substituted license" and shall bear the same date and number as the original license. R.S.O. 1927, c. 45, s. 30; 1937, c. 44, s. 2.

Not more  
than one  
license to be  
issued.

**31.**—(1) No person or company shall apply for or hold more than one miner's license. R.S.O. 1927, c. 45, s. 31 (1); 1933, c. 33, s. 3.

Refund  
where more  
than one  
license  
issued.

(2) A contravention of this section shall be an offense against this Act, but where the Minister is satisfied that there was no improper intent, and upon surrender of the unnecessary license or licenses, the Minister may relieve from the penalty and may direct a refund of the fee or fees paid. R.S.O. 1927, c. 45, s. 31 (2).

Production  
of license.

**32.** Every licensee shall upon demand produce and exhibit his license to an inspector or a recorder. R.S.O. 1927, c. 45, s. 32.

License to  
date from  
application  
therefor.

**33.** Where application for a license or a renewal of a license is made during the absence of a recorder from his office, the applicant may leave with the person in charge of the office his application and such documents as he is required to produce in order to obtain the license or renewal and the prescribed fee, and in every such case the license or renewal when issued shall be as effective as if obtained at the time of the application, and the license shall bear that date. R.S.O. 1927, c. 45, s. 33.

Licensee  
under  
twenty-one  
years of age.

**34.** A licensee under the age of twenty-one years shall, in respect of mining claims, mining lands and mining rights and all matters and transactions relating thereto, have the same rights and be subject to the same obligations and liabilities as if he were of full age. R.S.O. 1927, c. 45, s. 34.

Revocation  
of license for  
violation  
of Act.

**35.** The Minister, on the recommendation of the Judge, may revoke the license of any licensee who is guilty of a wilful contravention of any of the provisions of this Act, and a license shall not thereafter be issued to such licensee without the authority of the Minister. R.S.O. 1927, c. 45, s. 35.

## PART II.—MINING CLAIMS.

### WHAT LANDS OPEN.

Where  
licensee may  
prospect for  
minerals.

**36.** Subject to the provisions herein contained, the holder of a miner's license may prospect for minerals and stake out a mining claim on any,—

- (a) Crown lands surveyed or unsurveyed;
- (b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where the same have been located, sold, patented or leased after the 6th day of May, 1913;

not at the time,—

- (i) under staking or record as a mining claim which has not lapsed or been abandoned, cancelled or forfeited;  
or
- (ii) withdrawn by any Act, Order-in-Council, or other competent authority from prospecting, location or sale, or declared by any such authority to be not open to prospecting, staking out or sale as mining claims. R.S.O. 1927, c. 45, s. 36; 1930, c. 8, s. 3; 1931, c. 10, s. 3.

#### LICENSEE MAY STAKE OUT A CLAIM.

**37.** A licensee, for himself or on behalf of any other licensee, <sup>When claim may be staked.</sup> may stake out a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his interest therein to another licensee; but where the surface rights in the land have been granted, sold, leased or located by the Crown, a mining claim may be staked out only upon discovery by the licensee of valuable mineral in place, and compensation must be made as provided by section 93. R.S.O. 1927, c. 45, s. 37.

#### LANDS NOT OPEN.

**38.** No mining claim shall be staked out or recorded upon any land transferred to or vested in The Temiskaming and Northern Ontario Railway Commission, without the consent of the Commission, nor except with the consent of the Minister upon any land,—  
<sup>Lands of T. & N.O. Ry. Commission, etc.</sup>

- (a) reserved or set apart as a town site by the Crown;
- (b) laid out into town or village lots on a registered plan by the owner thereof;
- (c) forming the station grounds, switching grounds, yard or right of way of any railway, electric railway or



street railway, or upon any colonization or other road or road allowance. R.S.O. 1927, c. 45, s. 38.

Lands upon which mining claim may not be staked out.

**39.** No mining claim shall be staked out or recorded on any land,—

(a) which, without reservation of the minerals, has been sold, located, leased or included in a license of occupation; or

Rev. Stat., c. 33.

(b) for which a *bona fide* application is pending in the Department of Lands and Forests under *The Public Lands Act* or under any regulation made under that Act or under any other Act or regulation; or

(c) which has been reserved or set apart by the Department of Lands and Forests for summer resort purposes, except where the Minister of Mines certifies in writing that in his opinion discovery of valuable mineral in place has been made; or

(d) where the Minister of Lands and Forests certifies that land is required for the development of water power or for some other purpose in the public interest and the Minister of Mines is satisfied that a discovery of mineral in place has not been made thereon; R.S.O. 1927, c. 45, s. 39;

1924, c. 15.

(e) in an Indian Reserve, except as provided by *The Indian Lands Act, 1924*; 1924, c. 15; 1930, c. 8, s. 4.

(f) Where land is hereafter staked out and applied for as a mining claim but for use other than as mining land or the purposes of the mineral industry within the meaning of section 6, the Lieutenant-Governor in Council may direct that the claim be cancelled, and on the filing of a copy of an Order-in-Council in that behalf with the recorder for the mining division in which the land is situate, the claim shall be cancelled and annulled. 1931, c. 10, s. 4.

Lands used or occupied as gardens, etc

**40.**—(1) Notwithstanding that the mines or minerals therein have been reserved to the Crown, no person, mining partnership or company shall prospect for minerals or stake out a mining claim upon that part of any lot used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops which may be damaged by such prospecting are growing, or on that part of any lot upon which is situated



any spring, artificial reservoir, dam or waterworks, or any dwelling house, outhouse, manufactory, public building, church or cemetery, except with the consent of the owner, lessee or locatee of the surface rights, or by order of the recorder or the Judge, and upon such terms as to him may seem just. R.S.O. 1927, c. 45, s. 40 (1); 1930, c. 8, s. 5 (1).

(2) If any dispute arises between the intending prospector and the owner, lessee or locatee as to land which is exempt from prospecting or staking out under subsection 1, the recorder or the Judge shall determine the extent of the land which is so exempt. <sup>Disputes as to lands exempt.</sup> R.S.O. 1927, c. 45, s. 40 (2); 1930, c. 8, s. 5 (2).

**41.** A water power lying within the limits of a mining claim, which at low water mark, in its natural condition, is capable of producing one hundred and fifty horsepower or upwards, shall not be deemed to be part of the claim for the use of the licensee, and a road allowance of one chain in width shall be reserved on both sides of the water together with such additional area of land as in the opinion of the recorder or the Judge may be necessary for the development and utilization of such water power. <sup>Valuable water powers not included in claim.</sup> R.S.O. 1927, c. 45, s. 41.

**42.—**(1) The Lieutenant-Governor in Council may withdraw any lands or mining rights the property of the Crown from prospecting and staking out and from sale or lease. <sup>Withdrawal from prospecting and sale.</sup>

(2) The Lieutenant-Governor in Council may reopen for prospecting and staking out and for sale or lease any lands or mining rights so withdrawn, or which have been heretofore withdrawn. <sup>Reopening after withdrawal.</sup> R.S.O. 1927, c. 45, s. 42.

**43.** The Lieutenant-Governor in Council may direct that the mines and minerals in land or mining rights so withdrawn or in any part thereof may be worked by or on behalf of the Crown under and pursuant to regulations to be made by the Minister. <sup>Working on behalf of Crown.</sup> R.S.O. 1927, c. 45, s. 43.

**44.** Land or mining rights so withdrawn, until reopened by Order-in-Council, shall remain withdrawn, and shall not be prospected, staked out, occupied or worked except by or on behalf of the Crown. <sup>Lands withdrawn not to be prospected or worked.</sup> R.S.O. 1927, c. 45, s. 44.

**45.—**(1) Every officer appointed or acting under the provisions of this Act, and every assistant of such officer who makes a discovery of valuable mineral upon any lands or mining rights, open to prospecting and staking out as a mining claim, <sup>Duty of officers of the Crown discovering mineral.</sup>

shall stake out and record a parcel thereof of the size and form of a mining claim on behalf of the Crown, and no license shall be required for that purpose.

Method. (2) No proceeding shall be necessary for such staking out except to plant posts and blaze lines as provided in respect to a mining claim, but the officer or assistant shall mark upon No. 1 post the words "staked out for the Crown," and within the time limited by this Act for recording the claim shall notify the recorder of the staking out, giving the date of staking out and the description of the property.

Recording. (3) The recorder upon receiving such notice shall enter the parcel of land upon his record book as staked out on behalf of the Crown, and shall mark it upon his map with the letter "C," and after such staking out the parcel shall not be open to staking out or recording. R.S.O. 1927, c. 45, s. 45.

Crown may contract for working mining rights under agreement. **46.** Land or mining rights staked out on behalf of the Crown, and land or mining rights reserved or withdrawn from prospecting, staking out, or sale as mining claims, may be worked, sold, leased or granted by the Crown or worked under an agreement or arrangement with the Crown in such manner and upon such terms and conditions and for such price as may be provided by Order-in-Council; and all sales, leases, grants or working agreements heretofore made in respect of any such land or mining rights are hereby ratified and confirmed. R.S.O. 1927, c. 45, s. 46.

#### PROVINCIAL FORESTS.

Mining lands in Provincial Forest not to be sold. **47.**—(1) Mining lands in a Provincial Forest shall not be sold or granted but a lease of the same may be made for a period not exceeding ten years at a rental payable in advance of \$1 per acre for the first year and twenty-five cents per acre for each and every subsequent year, but the minimum rental shall be \$10 for the first year and \$4 for each subsequent year.

Lease to be renewable. (2) Every such lease shall be renewable in perpetuity for periods of not more than ten years at such rentals as may be provided and shall be subject to regulations made by the Lieutenant-Governor in Council. 1931, c. 10, s. 5.

Permit to Provincial Forester. **48.**—(1) Before beginning or carrying on any work prescribed by this Act on any mining claim, the holder thereof in addition to any other requirement shall obtain from the Provincial Forester or other authorized officer a written permit entitling him so to do as provided in *The Forest Fires Prevention Act*.

Rev. Stat. c. 325.

(2) If a mining claim is included in lands under timber license or for which a permit has been granted to cut timber, the holder of the claim shall compensate the timber licensee or person holding such permit for his interest in any timber cut or damaged thereon and any dispute between the holder of the mining claim and the timber licensee or person holding such permit in respect of the quantity or value of the timber so cut or damaged shall be disposed of by the Minister of Lands and Forests whose decision shall be final. 1931, c. 10, s. 6.

Timber  
licensee  
to be com-  
pensated.

#### SIZE AND FORM OF MINING CLAIMS.

49. A mining claim in unsurveyed territory shall be laid out with boundary lines running north and south and east and west astronomically and the measurements thereof shall be horizontal, and in a township surveyed into lots or quarter sections or subdivisions of a section, a mining claim shall be such part of a lot or quarter section or subdivision of a section as is hereinafter defined, and the boundaries of all mining claims shall extend downwards vertically on all sides. R.S.O. 1927, c. 45, s. 52.

Lines,—how  
to be run.

#### *Mining Claims not in a Special Mining Division.*

50. Except in a special mining division,—

- (a) A mining claim in unsurveyed territory shall be a square of 40 acres, being 20 chains (1,320 ft.) on each side. R.S.O. 1927, c. 45, s. 53, cl. (a).
- (b) In a township surveyed into sections of 640 acres subdivided into quarter sections, or subdivisions containing 160 acres or thereabouts, a mining claim shall consist of the northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter or a quarter section or subdivision, and shall contain 40 acres or thereabouts.
- (c) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northwest quarter of the north half, the northeast quarter of the north half, the southwest quarter of the north half, the southeast quarter of the north half, or any like subdivision of the south half, and shall contain 40 acres or thereabouts.
- (d) In a township surveyed into lots of 200 acres a mining claim shall consist of the northeast quarter,

Size and  
form of  
claim.

In townships  
surveyed in-  
to sections of  
640 acres.

Townships  
surveyed  
into lots of  
320 acres.

Townships  
surveyed  
into lots of  
200 acres

the southwest quarter, the northwest quarter or the southeast quarter of the lot, and shall contain 50 acres or thereabouts.

Townships surveyed into lots of 150 acres.

- (e) In a township surveyed into lots of 150 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter, or the southwest quarter of the lot, and shall contain  $37\frac{1}{2}$  acres or thereabouts.

Townships surveyed into lots of 100 acres.

- (f) In a township surveyed into lots of 100 acres, a mining claim shall consist of the north half, the south half, the east half, or the west half of the lot, and shall contain 50 acres, or thereabouts. R.S.O. 1927, c. 45, s. 53, cls. (c-g).

*Claims in a Special Mining Division.*

**51.** In a special mining division,—

In un-surveyed territory.

- (a) A mining claim in unsurveyed territory shall be a rectangle of 20 acres, having a length from north to south of 20 chains (1,320 ft.) and a width from east to west of 10 chains (660 ft.). R.S.O. 1927, c. 45, s. 54, cl. (a).

In townships surveyed into sections of 640 acres.

- (b) In a township surveyed into sections of 640 acres, where the sections have been subdivided into quarter sections or subdivisions, a mining claim shall consist of either the west half or the east half of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of a quarter section or subdivision, and shall contain 20 acres or thereabouts.

In townships surveyed into lots of 320 acres.

- (c) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northeast quarter of the northeast quarter, the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, or the southwest quarter of the northeast quarter, or any like subdivision of the southeast quarter, the southwest quarter of the northwest quarter of the lot, and shall contain 20 acres or thereabouts.

In townships surveyed into lots of 200 acres.

- (d) In a township surveyed into lots of 200 acres, a mining claim where the side lines of the lots run northerly and southerly shall consist of the northeast quarter of the north half, the southeast quarter of the north half, the northwest quarter of the north



half, the southwest quarter of the north half, or any like subdivision of the south half, and where the side lines of the lots run easterly and westerly, the mining claim shall consist of the northeast quarter of the east half, the northwest quarter of the east half, the southeast quarter of the east half, the southwest quarter of the east half, or any like subdivision of the west half, and every such mining claim shall contain 25 acres or thereabouts.

- (e) In a township surveyed into lots of 150 acres a mining claim shall consist of the north half or the south half of the northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter of the lot, and shall contain  $18\frac{3}{4}$  acres or thereabouts. In townships surveyed into lots of 150 acres.

- (f) In a township surveyed into lots of 100 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter, or the southwest quarter of a lot, and shall contain 25 acres or thereabouts. R.S.O. 1927, c. 45, s. 54, cls. In townships surveyed into lots of 100 acres.  
c-g.

### *Irregular Areas, etc.*

**52.**—(1) In unsurveyed territory an irregular portion of land lying between land not open to be staked out, or bordering on water, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area. Marking boundaries of irregular areas in unsurveyed territory.

(2) In a surveyed township where, by reason of land covered with water being excluded from the area of a lot, quarter-section or subdivision of a section, or by reason of the lot, quarter-section or subdivision being irregular in form, or from any other cause, it is impossible to stake out a mining claim of the prescribed area in accordance with the foregoing provisions of this Act, the mining claim shall as nearly as is practicable be of the prescribed form and area, and shall have such, if any, of its boundaries as can be so made coincident with boundary lines of the lot, quarter-section or subdivision of a section, and shall have as many as possible of its boundaries which are not so coincident parallel to boundaries of the lot, quarter-section or subdivision which are straight lines, and where necessary to procure the prescribed area the mining claim may extend into any part of the lot or quarter section or subdivision of a section, but not into any other lot or quarter-section or subdivision of a section, and In surveyed townships.



land lying between parcels of land not open to be staked out or between such land and a boundary or boundaries of the lot, quarter-section or subdivision of a section, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area.

Claims,  
including  
lands  
covered  
with water.

(3) In unsurveyed territory land covered with water may be included in a claim in the same way as land not covered with water; and in a surveyed township, land covered with water which would, if not covered with water, have been comprised in the area of the lot, quarter-section or subdivision of a section, or have constituted a lot, quarter-section, or subdivision of a section, may be included in a claim as if it were in fact part of such lot, quarter-section, or subdivision of a section; but wherever a claim includes land covered with or bordering on water there may be reserved to the Crown, the surface rights in a strip of land along the shore 66 feet in perpendicular width from the water's edge and such other rights of access and passage to, from and over the water as to the Minister may seem desirable, and in the case of navigable water a lease or license only to extract the ore or mineral, and not a patent, shall be granted. R.S.O. 1927, c. 45, s. 55.

Number  
of licenses  
which may  
be applied  
for in one  
year.

**53.** A licensee shall not in any one license year in any one mining division or in territory not included in a mining division, stake out or apply for:

- (a) more than three mining claims on his own license; nor
- (b) more than six claims for other licensees, being a maximum of nine claims in all, provided that not more than three claims shall be staked out or applied for on behalf of any such other licensee. R.S.O. 1927, c. 45, s. 56; 1931, c. 10, s. 8.

#### STAKING OUT CLAIMS.

Staking  
out and  
planting.

**54.—(1)** A mining claim shall be staked out by,—

- (a) planting or erecting a post at each of the four corners of the claim, beginning with and marking that at the northeast corner "No. 1," that at the southeast corner "No. 2," that at the southwest corner "No. 3," and that at the northwest corner "No. 4," so that the number shall be on the side of the post toward the post next following it in the order named;

- (b) writing or placing on No. 1 post the name of the licensee staking out the claim, the letter and number of his license, the date and hour of staking out, and, if the claim is staked out on behalf of another licensee, also the name of such other licensee and the letter and number of his license, and, if the claim is situated in a township surveyed into lots, quarter-sections or subdivisions of a section, the part thereof comprised in the claim, mentioning the lot and concession or the section by number;
- (c) writing or placing on No. 2, No. 3 and No. 4 posts the name of the licensee staking out the claim, and, if the claim is staked out on behalf of another licensee, also the name of such other licensee; and
- (d) plainly blazing the trees on two sides only where there are standing trees, and cutting the underbrush along the boundary lines of the claim, or where there are not standing trees, clearly indicating the outlines of the claim, by planting thereon durable pickets not less than five feet in height, at intervals of not more than two chains (132 feet) or by erecting at such intervals monuments of earth or rock not less than two feet in diameter at the base, and at least two feet high so that the lines may be distinctly seen.

(2) Where at a corner of the claim the nature or con-  
formation of the ground renders the planting or erecting  
of a post impracticable, such corner may be indicated by  
planting or erection at the nearest practicable point a witness  
post which shall bear the same marking as that prescribed  
for the corner post at that corner together with the letters  
"W.P." and an indication of the direction and distance of the  
site of the true corner from the witness post.

(3) Every post shall stand not less than four feet above  
the ground, and shall be squared or faced on four sides for  
at least one foot from the top, and each side shall measure  
at least four inches across where squared or faced, but a  
standing stump or tree may be used as a post if cut off and  
squared and faced to such height and size, and when the  
survey is made the centre of the tree or stump where it  
enters the ground shall be taken as the point to or from  
which the measurement shall be made.

(4) The following diagrams are intended to illustrate  
the method of staking out a claim as mentioned in sub-  
sections 1 and 2.

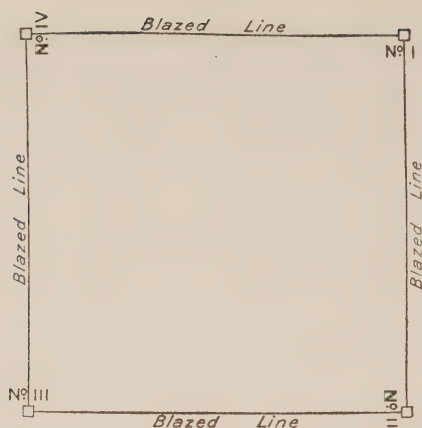


Diagram illustrating s. 54 (1).

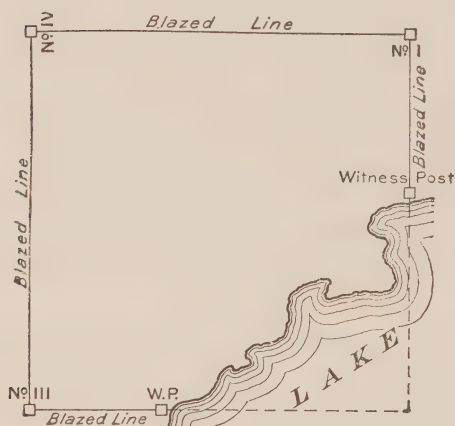


Diagram illustrating s. 54 (2)

R.S.O. 1927, c. 45, s. 57.

Forfeiture  
of right to  
further  
staking.

**55.**—(1) A licensee or other person who for any purpose does any staking out or plants, erects or places any stake, post, or marking upon any land open to prospecting except as authorized by this Act, or causes or procures the same to be done, or who stakes out or partially stakes out any such lands, or causes or procures the same to be done, and fails to record the staking out with the recorder within the prescribed time, shall not thereafter be entitled to again stake out such lands or any part thereof, or to record a mining claim thereon, unless he notifies the recorder in writing of such staking out, partial staking out, or planting, placing or marking and of his abandonment thereof and satisfies the recorder by affidavit that he acted in good faith and for no improper purpose and pays to the recorder

a fee of \$20 and procures from him a certificate stating that the recorder is satisfied that he so acted.

(2) The recorder shall enter every such certificate in his books with the date of its issue. R.S.O. 1927, c. 45, s. 58. Entry of forfeiture.

**56.** Substantial compliance as nearly as circumstances will reasonably permit with the requirements of this Act as to the staking out of mining claims shall be sufficient. R.S.O. 1927, c. 45, s. 59. Substantial compliance with Act sufficient.

#### APPLICATIONS TO RECORD.

**57.**—(1) A licensee who has staked out a mining claim, or upon whose behalf a mining claim has been staked out, shall within fifteen days thereafter or within the further time allowed by subsection 5, furnish the recorder with an outline, sketch or plan of the mining claim showing the corner posts and the witness posts, if any, and their distance from each other in feet, together with an application in the prescribed form, setting forth the name of the licensee by whom the claim was staked out, and of the licensee on whose behalf the application is made, and the letters and number of their licenses, the name, if any, of the claim, and in the case of unsurveyed territory, its locality indicated by some general description and such other information as will enable the recorder to indicate the claim on his office map, or in the case of a surveyed township, designating the lot, quarter-section, or subdivision of a section, and the portion thereof comprised in the claim, the length of the outlines, and if for any reason they are not regular, the nature of such reason, the day and hour when the claim was staked out and the date of the application, and with the application shall be paid the prescribed fee. Plan and application to be furnished to recorder.

(2) If a licensee claims to be entitled to a free grant of a mining claim under section 97, he shall, in addition to the application to record the claim, make application in the form prescribed for the free grant. R.S.O. 1927, c. 45, s. 60 (1, 2). Application for free grant.

(3) The application and sketch or plan shall be accompanied by an affidavit, in the prescribed form, made by the licensee who staked out the claim, showing the date of the staking out and stating that the distances given in the application and sketch or plan are as accurate as they could reasonably be ascertained and that all the other statements and particulars set forth and shown in the Affidavit to accompany map.



application and sketch or plan are true and correct, that at the time of staking out there was nothing upon the lands to indicate that they were not open to be staked out as a mining claim, that the deponent verily believes they were so open and that the staking out is valid and should be recorded, and that there are upon the lands or the lot or part lot or section of which they form a part, no buildings, clearing or improvements for farming or other purposes except as set forth in the affidavit, and an applicant for a free grant shall also file an affidavit in the prescribed form showing his right thereto.

(4) Any affidavit required to be made under subsection 3 or section 78 may be taken before an Ontario land surveyor. R.S.O. 1927, c. 45, s. 60 (3); 1928, c. 16, s. 1.

Additional  
time allowed  
in con-  
sideration of  
distance.

(5) Where the claim is situate more than ten miles in a straight line from the office of the recorder for each additional ten miles or fraction thereof an additional day shall be allowed for recording but in no case shall the time for recording exceed sixty days from the date of staking. R.S.O. 1927, c. 45, s. 60 (4); 1937, c. 44, s. 4.

Mis-  
description,  
when not to  
invalidate  
claim.

(6) Where it appears that there has been an attempt made in good faith to comply with the provisions of this Act, the inclusion of more or less than the prescribed area in a mining claim, or the failure of the licensee to describe or set out in the application, sketch or plan furnished to the recorder the actual area or parcel of land staked out shall not invalidate the claim. R.S.O. 1927, c. 45, s. 60 (5).

Endorse-  
ment of  
claims  
recorded  
on license.

**58.** A licensee by or on whose behalf an application is made to record a mining claim shall at the time of the application produce the license of the licensee by whom the staking out was done and of the licensee by or on whose behalf the application is made to the recorder, and the recorder shall endorse and sign upon the back of the last-mentioned license a note in writing of the record of the claim, and no such record shall be complete or effective until such endorsement is made unless upon application to or in any case coming before the Judge he deems it just that compliance with the requirements of this section should be excused. R.S.O. 1927, c. 45, s. 61.

Licensee  
recording  
in another  
division  
by error.

**59.** If by error a licensee records a mining claim in a division other than that in which the claim is situate the error shall not affect his title to the claim, but he shall within fifteen days from the discovery of the error record the claim in the division in which it is situate, and the new record



shall bear the date of the former record, and a note shall be made thereon of the error and of the date of rectification. R.S.O. 1927, c. 45, s. 62.

**60.**—(1) The recorder shall forthwith enter in the proper book in his office the particulars of every application to record a mining claim which he deems to be in accordance with the provisions of this Act, unless a prior application is already recorded and subsisting for the same, or for any substantial portion of the same lands or mining rights, and he shall file the application, sketch or plan and affidavit with the records of his office; and every application proper to be recorded shall be deemed to be recorded when it is received in the recorder's office, if all requirements for recording have been complied with, notwithstanding that the application may not have been immediately entered in the record book. <sup>What to be recorded.</sup>

(2) If an application is presented which the recorder deems to be not in accordance with this Act, or which is for lands or mining rights which or any substantial portion of which are included in a subsisting recorded claim, he shall not record the application, but shall, if desired by the applicant, upon receiving the prescribed fee, receive and file the application, and any question involved may be adjudicated as provided in this Act; but such filing shall not be deemed a dispute of the recorded claim, nor shall it be noted or dealt with as such, unless a dispute verified by affidavit is filed with the recorder by the applicant or by another licensee on his behalf as in section 61 provided. <sup>Procedure when refused.</sup> <sup>Adjudication.</sup>

(3) As soon as reasonably possible after the recording of the mining claim, and not later than the expiration of the time for performing the first instalment of work, the holder of the claim shall affix or cause to be affixed securely to each of the corner posts of the said claim, a metal tag plainly marked or impressed with the recorded number and letter or letters, if any, of the claim, and in default the claim may be cancelled by the recorder or Judge on the application of any one misled by the lack of such tags, and the recorder on application shall supply such numbered tags free of charge. R.S.O. 1927, c. 45, s. 63. <sup>Tagging claim posts after recording.</sup>

#### DISPUTING APPLICATIONS.

**61.**—(1) A dispute in the prescribed form, verified by affidavit in the prescribed form, may be filed with the recorder by a licensee alleging that any recorded claim is <sup>Dispute of recorded claim.</sup>

illegal or invalid in whole or in part, and if the disputant or the licensee in whose behalf he is acting claims to be entitled to be recorded for or to be entitled to any right or interest in the lands or mining rights, or in any part thereof comprised in the disputed claim the dispute shall so state, giving particulars; and the recorder shall, upon payment of the prescribed fee, receive and file such dispute, and shall enter a note thereof upon the record of the disputed claim.

Copy to be  
sent to  
recorded  
holder.

(2) A copy of the dispute and affidavit shall be left by the disputant with the recorder who shall not later than the next day after the filing of the dispute transmit such copy by registered post to the recorded holder or holders of the mining claim affected thereby, and if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant ten cents per folio for making the copy.

Address  
for service of  
disputant.

(3) A dispute shall not be received unless it contains or has endorsed thereon an address for service at some place not more than five miles distant from the recorder's office, and the provisions of subsections 4 and 5 of section 127 shall apply in respect to service upon the disputant. R.S.O. 1927, c. 45, s. 64 (1-3).

Not to be  
received  
after  
certificate  
issued.

(4) A dispute shall not be received or entered against any claim after a certificate of record thereof has been granted, nor except by leave of the judge after the validity of the claim has been adjudicated upon by the recorder or by the Judge, or after it has been on record for sixty days and has already had a dispute entered against it. R.S.O. 1927, c. 45, s. 64 (4); 1931, c. 10, s. 9.

#### CERTIFICATE OF RECORD.

Granting  
certificate of  
record.

**62.**—(1) When a mining claim not in a special mining division has been recorded for sixty days, the recorder shall, upon application of the holder of the claim, give a certificate of record in the prescribed form, provided that there is no dispute standing against the claim, and the surface rights compensation, if any, has been paid or secured, and unless by reason of an order, pending proceeding or other special matter or thing, it would be improper to give such certificate.

Certificate  
as to portion  
of claim.

(2) If a portion of the claim is unaffected by any matter or reason mentioned in subsection 1, the recorder may, if he deems proper, give a certificate of record as to such portion. R.S.O. 1927, c. 45, s. 65.

(3) A certificate of record shall not be issued in respect of a claim in unsurveyed territory until the same has been duly surveyed and the plans thereof filed as provided in section 103. 1931, c. 10, s. 10.

Claim in unsurveyed territory to be surveyed.

**63.** The certificate of record, in the absence of mistake or fraud, shall be final and conclusive evidence of the performance of all the requirements of this Act, except working conditions, in respect to the mining claim up to the date of the certificate; and thereafter the mining claim shall not in the absence of mistake or fraud be liable to impeachment or forfeiture except as expressly provided by this Act. R.S.O. 1927, c. 45, s. 66.

Effect of issue and delivery of certificate of record.

**64.** Where the certificate of record has been issued in mistake or has been obtained by fraud, the Judge shall have power to revoke and cancel it on the application of the Crown or an officer of the Department, or of any person interested. R.S.O. 1927, c. 45, s. 67.

Cancelling certificate of record issued by mistake, etc.

**65.—(1)** Where a mining claim has been staked out in the name of the holder of a miner's license without his knowledge and consent, such staking out shall not derogate from or interfere with the right of such person so as to prevent the staking out of claims to the extent to which he is legitimately entitled.

Staking under invalid license, effect of.

(2) Where a license is issued without the consent of the licensee and a claim or claims has or have been staked out under such license without the knowledge and consent of the person named therein, the Minister, upon the application of such person, may cancel any license so issued and declare any staking or other work done on the claim or claims null and void and of no effect. 1932, c. 13, s. 2.

False staking of claims in excess of number fixed by The Mining Act.

#### RIGHTS OF LICENSEE.

**66.** The staking out or the filing of an application for, or the recording of a mining claim, or all or any of such acts, shall not confer upon a licensee any right, title, interest or claim in or to the mining claim, other than the right to proceed, as in this Act provided to obtain a certificate of record and a patent from the Crown, and prior to the issue of a certificate of record the licensee shall be merely a licensee of the Crown, and after the issue of the certificate and until he obtains a patent he shall be a tenant at will of the Crown in respect of the mining claim. R.S.O. 1927, c. 45, s. 68.

Rights in claim.

Free  
assays to  
be given  
licensee.

**67.** Every licensee who stakes out and records a mining claim shall be given by the recorder two free assay coupons on recording the same and two additional free assay coupons on recording each forty days' work thereafter, and on forwarding or delivering, charges prepaid, samples from the mining claim to the Provincial Assayer, Toronto, together with the required number of coupons, he shall be entitled to have the same assayed without charge as follows: for one coupon, one assay for gold, silver, copper, lead or metallic iron; for two coupons, one assay for nickel, zinc, tin or tungsten; and for three coupons, one assay for cobalt. 1931, c. 10, s. 11.

Where claim  
abandoned,  
cancelled or  
forfeited.

**68.**—(1) Where the recorded holder of a mining claim abandons the same, or where the claim is cancelled or forfeited under this Act, he may take from the same any buildings, structures, machinery, chattels or personal property, and any ore or mineral he may have extracted therefrom within six months after such abandonment, cancellation or forfeiture, or within such further time as may be fixed by the Judge, and any such buildings, structures, machinery, property or ore remaining on the claim after the expiry of such time shall belong to His Majesty for the use of Ontario. R.S.O. 1927, c. 45, s. 70; 1931, c. 10, s. 12; 1937, c. 44, s. 5 (1).

Building  
or structure  
on mining  
claim.

(2) Where at the time of the staking of any mining claim either before or after the coming into force of this subsection, any building or other structure is located on such claim, such building or other structure shall, subject to the provisions of subsection 1, belong to His Majesty in right of the Province and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he may deem expedient. 1937, c. 44, s. 5 (2).

#### ADDRESS FOR SERVICE.

Address  
for service  
to be on  
application  
for claim,  
etc.

**69.**—(1) Every application for a mining claim and every other application and every transfer or assignment of a mining claim or of any right or interest acquired under the provisions of this Act shall contain, or have endorsed thereon, the place of residence and post office address of the applicant, transferee or assignee, and also, when he is not a resident in Ontario, the name, residence and post office address of some person resident in Ontario upon whom service may be made.

Irregular  
documents  
not to be  
filed.

(2) No such application, transfer or assignment shall be filed or recorded unless it conforms with the provisions of subsection 1.



(3) Another person resident in Ontario may be substituted as the person upon whom service may be made by filing in the office in which any such application, transfer or assignment is filed or recorded, a memorandum setting forth the name, residence and post office address of such other person, and such substitution may be made from time to time as occasion may require. Substituting new agent for service.

(4) Service upon the person named as the person upon whom service may be made, unless another person has been substituted for him under the provisions of subsection 3, and in case of such substitution upon the person substituted shall have the same effect as service upon the person whom he represents. Service upon agent to be sufficient.

(5) The provisions of subsection 4 shall apply to every notice, demand or proceeding in any way relating to a mining claim or to mining rights or to any other right or interest which may be acquired under the provisions of this Act. General application of section.  
R.S.O. 1927, c. 45, s. 71.

#### TRUSTS, AGREEMENTS AND TRANSFERS.

**70.**—(1) Notice of a trust, express, implied or constructive, relating to any unpatented mining claim shall not be entered on the record or be received by a recorder. Claim "in trust."

(2) Describing the holder of the mining claim as a trustee, whether the beneficiary or object of the trust is mentioned or not, shall not impose upon any person dealing with such holder, the duty of making any enquiry as to his power to deal therewith, but the holder may deal with the claim as if such description had not been inserted. Describing licensee as trustee, etc., effect of.

(3) Nothing in this section shall relieve the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein, from liability as between himself and any person, mining partnership or company for whom he is a trustee, but such liability shall continue as if this section had not been enacted, nor shall any provision in this Act relieve the holder from any personal liability or obligation. R.S.O. 1927, c. 45, s. 72. Saving of rights of others.

**71.**—(1) No person shall be entitled to enforce any claim, right or interest, contracted for or acquired before the staking out, to or in or under any staking out or recording of a mining claim or of any mining lands or mining rights done in the name of another person unless the fact that such first-mentioned person is so entitled is made to Necessity for writing signed.



In cases  
before stak-  
ing out.

appear by a writing signed by the holder of the claim or by the licensee by whom or in whose name the staking out or recording was done or the evidence of such first-mentioned person is corroborated by some other material evidence, and where a right or interest is so made to appear the provisions of the Statute of Frauds shall not apply.

Sales or  
transfers  
after stak-  
ing out.

(2) No person shall be entitled to enforce any contract, made after the staking out, for sale or transfer of a mining claim or any mining lands or mining rights, or any interest in or concerning the same, unless the agreement or some note or memorandum thereof is in writing signed by the person against whom it is sought to enforce the contract or by his agent thereunto by him lawfully authorized. R.S.O. 1927, c. 45, s. 73.

Transfer,  
form of.

**72.** A transfer of an unpatented mining claim or of any interest therein may be in the prescribed form and shall be signed by the transferor or by his agent authorized by instrument in writing. R.S.O. 1927, c. 45, s. 74.

#### RECORDING DOCUMENTS.

Pre-  
requisites for  
recording  
instruments.

**73.** Except as in this Act otherwise expressly provided, no transfer or assignment of or agreement or other instrument affecting a mining claim or any recorded right or interest acquired under the provisions of this Act, shall be entered on the record or received by a recorder unless the same purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorized by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument. R.S.O. 1927, c. 45, s. 75.

Priority.

**74.** After a mining claim or any other right or interest acquired under the provisions of this Act has been recorded every instrument other than a will affecting the claim or any interest therein shall be void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless such instrument is recorded before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1927, c. 45, s. 76.

Recording  
to be notice.

**75.** The recording of an instrument under this Act shall constitute notice of the instrument to all persons claiming any interest in the claim subsequent to such recording, notwithstanding any defect in the proof for recording, but

nevertheless it shall be the duty of the recorder not to record except upon the proof required by this Act. R.S.O. 1927, c. 45, s. 77.

**76.** Priority of recording shall prevail unless, before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording. R.S.O. 1927, c. 45, s. 78. Where actual notice to prevail.

**77.**—(1) The recorder shall enter upon the record of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him affecting the same, giving its date and effect and the date of the entry, and he shall upon receiving with the prescribed fee, an order or decision of the Judge, or an order, judgment or certificate in an appeal from him, or a certified or sworn copy thereof, file the same and enter a note thereof upon the record of the claim or right or interest affected thereby. Recording orders and judgments.

(2) In a proceeding calling in question any interest in an unpatented mining claim or other recorded right or interest the Judge or recorder may issue a certificate in the prescribed form, and upon receipt thereof and payment of the prescribed fee the recorder shall file and note it as herein above directed. Recording certificate of *lis pendens*.

(3) The filing of a certificate shall be actual notice to all persons of the proceeding. Filing certificate to be notice.

(4) The certificate, and the filing and noting thereof, shall be of no effect for any purpose whatever after the expiration of ten days from the date of filing unless within that time an order continuing the same is obtained from the Judge or the recorder, and any person interested may at any time apply to the Judge for an order vacating the certificate. Duration of certificate of *lis pendens*.

(5) On receipt by the recorder of such order he shall forthwith transmit by registered post a copy of the same to every recorded holder of an interest in the mining claim. Notification of continuance or vacating of *lis pendens*.

(6) A copy of a writ of execution certified by the sheriff of the county or district, or a bailiff of a division court therein, to be a true copy of a writ in his hands may be filed with the recorder, and the recorder, upon receiving the prescribed fee and being given the number or description of the claim, shall enter a note of such execution upon the record of each claim of which the execution debtor is the recorded holder or in which he has a recorded interest, Execution against claims, etc.

and from and after, but not before, such entry, the execution shall bind all the right or interest of the execution debtor in the claim, and after such entry the sheriff or bailiff shall have power to sell and realize upon such right or interest in the same way as goods and chattels may be sold and realized upon under execution, and a transfer from the sheriff or bailiff to the purchaser may, upon the latter becoming, if he is not before, a licensee, be recorded in like manner and with the same effect as a transfer from the execution debtor.

Certified  
copy, fee  
therefor.

(7) Such certified copy of the writ of execution may be obtained from the sheriff or bailiff on payment of a fee of \$1, which fee, together with the fee paid for recording the same, shall be added to the execution debt

Keeping  
claim in good  
standing  
after entry  
of execution.

(8) After entry of such execution upon the record of the claim the sheriff, bailiff or the execution creditor may do anything which the execution debtor could do to keep the claim or interest in or restore it to good standing, and shall be entitled to add the necessary expense thereof to the execution debt.

Discharge of  
execution.

(9) Such execution may be discharged by recording a certificate from the sheriff or bailiff that it has been satisfied, or by recording a release from the execution creditor, or by obtaining and filing an order of the Judge directing its removal. R.S.O. 1927, c. 45, s. 79.

#### WORKING CONDITIONS.

Working  
conditions  
on mining  
claims.

**78.**—(1) The recorded holder of a mining claim heretofore or hereafter recorded shall, within five years immediately following the recording thereof, perform or cause to be performed thereon work which shall consist of stripping or opening up mines, sinking shafts or other actual mining operations to the extent of two hundred days' work of not less than eight hours per day, which work shall be performed as follows, and at least thirty days' work within three months immediately following the recording of the claim, and not less than forty days in each of the remaining four years, provided that in any one of the said five years ten days' additional work shall be done to make up the total of two hundred days.

Work  
done within  
earlier  
period and  
allowance  
for excess.

(2) The work may be completed in a less period of time than herein specified, and if more work is performed by or on behalf of the recorded holder than is herein required during the first three months or in any subsequent year,

the excess upon proof of the same having been performed shall be credited by the recorder upon the work required to be done during any subsequent year. R.S.O. 1927, c. 45, s. 80 (1, 2).

(3) Boring by diamond or other core drill shall count as <sup>Drilling.</sup> work at the rate of one day's work for every foot of boring and work by a machine drill operated by compressed air shall count as work at the rate of three days' work for each man necessarily employed upon each drill so operated. R.S.O. 1927, c. 45, s. 80 (3); 1937, c. 44, s. 6 (1).

(4) The recorded holder of a mining claim shall, not later than ten days after each of the periods specified make <sup>Report of holder upon work.</sup> a report in the prescribed form as to the work done or caused to be done, by him during such period, verified by affidavit in the prescribed form, but a report shall not be required for any period in which in consequence of the work having been previously done and reported no work has been done, and the report shall show in detail the names and residences of the men who performed the work and the dates upon which each man worked in its performance.

(5) The recorder if satisfied that the prescribed work <sup>Certificate of performance.</sup> has been duly performed may grant a certificate in the prescribed form, but he may first, if he deems proper, inspect or order the inspection of the work, or otherwise investigate the question of its sufficiency and such certificate, in the absence of fraud or mistake, shall be final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Judge shall have power to revoke and cancel it upon the application of the Crown or an officer of the Department or any person interested.

(6) The decision of the Judge as to the due performance <sup>Decision of Judge final.</sup> of work shall be final.

(7) A license holder may perform all the work required <sup>Work to be performed on claims.</sup> to be performed by him in respect of not more than six contiguous mining claims held by him on one or more of such claims and the report and affidavit to be filed by him in respect of such work shall certify the claim or claims on which the work was performed and the claims upon which it is to be applied.

(8) The construction of houses or roads or other like <sup>Certain work not regarded.</sup> improvements shall not constitute "actual mining operations" within the meaning of this section. R.S.O. 1927, c. 45, s. 80 (4-8).



Survey to  
count as  
forty days'  
work.

(9) The survey of a mining claim made in pursuance of section 103 or 104, on the plan and field notes thereof being filed with the Mining Recorder within the prescribed time, shall count as forty days' work on the surveyed claim, except in respect of the work required by subsection 1 to be done within three months immediately following the recording of the claim. 1934, c. 32, s. 2.

Survey may  
be applied  
as work  
before plans  
filed.

(10) On receipt of an affidavit by an Ontario land surveyor that he has made a survey of a mining claim within the period during which any work is required by this Act to be done on such claim, except in respect of the work required by subsection 1 to be performed within three months immediately following the recording of the claim, and an undertaking of such surveyor that he will forward or cause to be forwarded to the recorder not later than two months after the close of the period for doing the work, plans and field notes of the survey, the recorder may enter upon the record of the claim forty days' work and he may cancel the entry in default of receipt of such plans and field notes within such period of two months.

Geo-physical  
survey to  
count as  
work.

(11) Survey by a recognized geo-electrical or geo-physical method may be counted as work at the rate of one day's work for each man necessarily employed in such survey. 1937, c. 44, s. 6 (2).

#### *Computation of Time—Extensions.*

Periods  
excluded in  
computing  
time for  
performance  
of working  
conditions.

**79.** In computing the time within which work upon a mining claim is required to be performed, the following periods of time shall be excluded:

- (a) all time which by an Order-in-Council or regulation is excluded;
- (b) for the first instalment of work, between the 16th day of November and the 15th day of April, both days inclusive, but this shall not have the effect of extending the time for the performance of any subsequent instalment of work;
- (c) if the Provincial Forester or other authorized officer refuses to issue a permit for the beginning or carrying on of work prescribed by this Act, or prohibits its performance, the time during which such refusal or prohibition subsists. R.S.O. 1927, c. 45, s. 81; 1931, c. 10, s. 13.



**80.**—(1) If by reason of pending proceedings or of the death or incapacity from illness of the holder of a mining claim the work is not performed within the prescribed time, the recorder may from time to time extend the time for the performance of such work for such period as he may deem reasonable and he shall forthwith enter a note of every such extension on the record of the claim. Extension of time for performance.

(2) Work performed within any such extended period shall be deemed to have been duly performed under section 78. Work done during extension.  
R.S.O. 1927, c. 45, s. 82.

**81.**—(1) Where two or more persons are the holders of an unpatented mining claim, each of them shall contribute proportionately to his interest, or as they may otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and in case of default by any holder the Judge upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as he may deem just. Proportionate contribution by co-owners.

(2) Subsection 1 shall apply to all mining claims staked out or applied for on or after the 14th day of May, 1906, or before that day under regulations made under the authority of *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897. R.S.O. 1927, c. 45, s. 83. Application of subs. 1.

**82.** Where the holder of any interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Judge, upon the application of such person and upon notice to and after hearing all persons interested, or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1927, c. 45, s. 84. Charge of person doing work on mining claim.

#### ABANDONMENT.

**83.**—(1) A licensee may, at any time, abandon a mining claim by giving notice in writing in the prescribed form to the recorder of his intention so to do. Right of licensee to abandon.

(2) The recorder shall enter a note of such abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in his Entry of note of abandonment.

office a notice of the abandonment, marked with the date of the posting up thereof, and thereupon all interest of the licensee in such claim shall cease and determine, and the claim shall, on and after, but not before the eleventh day after such posting up, inclusive of the day of posting up, be open for prospecting and staking out. R.S.O. 1927, c. 45, s. 85.

Effect  
of non-  
compliance  
with Act or  
direction of  
recorder as  
abandon-  
ment.

**84.** Non-compliance by the licensee with any requirement of this Act as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Judge be forthwith opened to prospecting and staking out. R.S.O. 1927, c. 45, s. 86.

#### FORFEITURE.

Causes of  
forfeiture  
of mining  
claim.

**85.**—(1) Except as provided by section 86, all the interest of the holder of a mining claim before the patent thereof has issued shall, without any declaration, entry or act on the part of the Crown or by any officer, cease and the claim shall forthwith be open for prospecting and staking out,—

- (a) if the license of the holder has expired, and has not been renewed;
- (b) if, without the consent in writing of the recorder or Judge, or for any purpose of fraud or deception or other improper purpose the holder removes or causes or procures to be removed any stake or post forming part of the staking out of such mining claim, or for any such purpose changes or effaces or causes to be changed or effaced any writing or marking upon any such stake or post;
- (c) if the prescribed work is not duly performed;
- (d) if any report under subsection 4 of section 78 is not made and deposited with the recorder as therein required;
- (e) if the application and payment for the patent required by sections 95 and 96 are not made within the prescribed time.

Proceed-  
ings as to  
forfeiture.

(2) No person other than the Minister or an officer of the Department, or a licensee interested in the property affected shall be entitled to raise any question of forfeiture

except by leave of the Judge, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 61. R.S.O. 1927, c. 45, s. 87.

**86.**—(1) Where forfeiture or loss of rights has occurred under section 85, the Judge within six months after default, or the Minister at any time after such six months, on report of the Judge, may, upon such terms as he may deem just, make an order relieving the person in default from such forfeiture or loss of rights, and upon compliance with the terms, if any, so imposed the interest or rights forfeited or lost shall revert in the person so relieved, but as a term of such order in the case mentioned in clause *a* of subsection 1 of section 85, the holder of the claim shall obtain a special renewal license, which shall be so marked and which shall be issued only on payment of twice the prescribed license fee, and in the case mentioned in clause *d* of the said subsection the holder shall file a proper report and pay therewith a special fee of \$3. R.S.O. 1927, c. 45, s. 88 (1); 1929, c. 15, s. 3; 1931, c. 10, s. 14 (1). Relief against forfeiture.

(2) The recorder, upon any forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record of the claim "Cancelled," and shall forthwith post up in his office a notice of cancellation. R.S.O. 1927, c. 45, s. 88 (2). Record of forfeiture.

(3) On application to him by an interested holder not earlier than thirty days before the date by which any work on a mining claim prescribed by this Act should be performed, or the date by which the money required for a patent or lease of the same should be paid, the Judge may extend the time for performing the work or paying the money, as the case may be. 1931, c. 10, s. 14 (2). Extension of time for performance of work or payment of money.

(4) Where forfeiture or loss of rights has occurred under section 85 or any other section of this Act, the lands, mining rights or mining claims so forfeited shall not be open for staking until seven o'clock standard time in the forenoon of the day immediately following that upon which forfeiture occurred. 1936, c. 56, s. 9. Staking after forfeiture or loss of rights.

**87.** The Lieutenant-Governor in Council, upon the recommendation of the Minister and the report of the Judge, may upon such terms, if any, as to compensation in respect of any intervening right or otherwise as he may deem just, relieve against any forfeiture or loss of rights under section 85 which he deems to be a hardship and revert the forfeited right or interest in the person who would but for the forfeiture have been entitled thereto. R.S.O. 1927, c. 45, s. 89. Relief against forfeiture by Lieutenant-Governor in Council.

Interest of  
joint holder  
on expiry of  
his license.

**88.** In the case of joint holders where the interest of a holder has ceased by reason of the expiration of his license, such interest shall, if the Judge so directs, pass to and vest in the other holders in proportion to their interests in the claim. R.S.O. 1927, c. 45, s. 90.

Death  
of licensee  
before  
recording  
claim, or of  
holder before  
patent.

**89.** Where a licensee in whose name a mining claim has been staked out, dies before the claim is recorded, or where the holder of a claim dies before issue of the patent or lease for the claim, no other person shall, without leave of the Judge, be entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Judge may at any time make such order as may seem just for vesting the claim in the representative of such holder, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act. R.S.O. 1927, c. 45, s. 91.

#### INSPECTION OF CLAIMS.

Inspection  
by Judge,  
recorder or  
inspector.

**90.**—(1) The Judge or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether the provisions of this Act have been complied with, but after the granting of the certificate of record no such inspection shall, except by order of the Judge, be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

Exception.

Appli-  
cation by  
holder for  
reinspection.

(2) Unless notice of the inspection has been given to the holder of the claim at least seven clear days prior thereto, either personally or by registered letter addressed to him at his address appearing on record in the recorder's books he may apply to the Judge or to the recorder for a reinspection and the same shall be granted if it appears that the holder of the claim has been prejudiced by the want of notice.

View or  
inspection  
in disputes,  
appeals, etc.

(3) The Judge or recorder may in any dispute, appeal or other proceeding before him make or order with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1927, c. 45, s. 92.

Filing  
and entry  
of report of  
inspection.

**91.**—(1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry.



(2) If the recorder deems that upon the report the claim should be cancelled he shall mark the record of the claim "Cancelled" and affix his signature or initials and shall by registered letter mailed not later than the next day notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report, and where the claim is cancelled in consequence of the report the notice shall so state.

Cancelling  
claim upon  
report.

(3) An appeal from the cancellation of the claim or from the entry by the recorder in his record book of the allowance of the discovery may be taken to the Judge by the holder of the claim or by the disputant or other interested party, within the time and in the manner provided by section 127.

Appeal from  
cancellation  
or allowance  
to the Judge.

(4) Upon the cancellation of a claim under this section the recorder shall forthwith post up in his office a notice of the cancellation, and the land or mining rights comprised in such claim shall thereupon, unless withdrawn from prospecting and staking out, be again open to prospecting and staking out, but such staking out shall be subject to the result of any appeal by a licensee whose claim has been cancelled. R.S.O. 1927, c. 45, s. 93.

Effect of  
cancellation.

**92.** The holder of a mining claim or the disputant or other person interested shall be entitled on payment of the prescribed fee to receive from the recorder a certified copy of any report of inspection of the claim filed with him. R.S.O. 1927, c. 45, s. 94.

Right of  
holder to  
copy of  
report.

#### SURFACE RIGHTS COMPENSATION.

**93.**—(1) Where the surface rights of land have been granted, sold, leased, or located with reservation of mines, minerals or mining rights to the Crown, or where land is occupied by a person who has made improvements thereon which in the opinion of the Minister entitle him to compensation, a licensee who prospects for mineral, or stakes out a mining claim or an area of land for a boring permit, or carries on mining operations upon such land shall compensate the owner, lessee, locatee, or occupant, for all injury or damage which is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner, and time of payment of compensation shall be determined by the Judge upon application to him after notice to the persons interested, and, subject where the amount awarded exceeds \$1,000 to appeal to the Court of Appeal, his order shall be final and may be enforced as provided in section 126.

Right of  
owner of  
surface  
rights to  
compensation.



Prohibit-  
ing work  
pending  
settlement.

(2) The Judge may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by such licensee or any person claiming under him.

Other  
licensees not  
to prospect,  
etc., pending  
proceedings.

(3) Where an order is made prohibiting the prospecting, staking out or working of a mining claim under the provisions of subsection 2, no other licensee shall have the right to prospect or stake out a mining claim to the prejudice of the prohibited licensee while the proceeding is pending.

Lien for  
compensa-  
tion.

(4) The compensation shall be a special lien upon any mining claim or other right or interest acquired by the licensee or any person claiming under him in the land so prospected, staked out or worked, and no further prospecting, staking out or working, except by leave of the Judge, shall be done by the licensee or any person claiming under him after the time fixed for the payment or securing of the compensation unless such compensation has been paid or secured as directed.

Reduction in  
area of claim  
where  
surface  
rights have  
been sold.

**94.** The Judge or the recorder may reduce the area of any mining claim staked out where the surface rights have been granted, sold, leased or located, if in his opinion an area less than the prescribed area is sufficient for working the mines and minerals therein. R.S.O. 1927, c. 45, s. 96.

#### ISSUE OF PATENT FOR MINING CLAIM.

Right to  
patent of  
claim.

**95.**—(1) Upon compliance with the requirements of this Act and upon payment of the purchase price as provided in section 96, or rental fixed by regulation made by the Lieutenant-Governor in Council, the holder of a mining claim shall be entitled to a patent or lease, as the case may be, for the claim. R.S.O. 1927, c. 45, s. 97 (1).

Application  
for patent.

(2) The application for a patent or lease shall be made to the recorder within one year from the date upon which all work on a mining claim is required to be performed. R.S.O. 1927, c. 45, s. 97 (2); 1937, c. 44, s. 7.

Price  
to be paid  
for patent.

**96.**—(1) The price per acre of Crown lands patented as mining claims shall be \$3 in surveyed territory and \$2.50 in unsurveyed territory, and the price per acre for mining rights so patented shall be one-half the price payable for Crown lands, except that where the recorded holder of a

mining claim or of an interest in a mining claim, being a licensee, has after acquiring such claim or interest, enlisted or enrolled for active service at home or abroad against the King's enemies, payment of the purchase money or first year's rental as the case may be, shall not be required so far as the interest of such holder is concerned, but this exception shall not apply to more than three mining claims for any one recorded holder. R.S.O. 1927, c. 45, s. 98 (1).

(2) Where the area of the mining claim exceeds by more than five acres the prescribed area as defined in sections 50 and 51 and such claim is not reduced in size under the provisions of section 105, the price per acre of such area in excess of the area so prescribed shall be twice the price provided for in subsection 1 and there shall be performed at least five days' work per acre for such excess area within such time as may be prescribed by the Minister. R.S.O. 1927, c. 45, s. 98 (2); 1933, c. 33, s. 4.

Price to be paid where area exceeds prescribed area.

(3) Where it is deemed necessary by the Minister under the provisions of section 104 that a mining claim in surveyed territory shall be surveyed, the purchase price of the said claim shall be at the rate of \$2.50 per acre. 1937, c. 44, s. 8.

Purchase price.

**97.** A licensee who is the first discoverer of valuable mineral in place upon land not in a Provincial Forest at a point not less than five miles from the nearest known mine, vein, lode or deposit of the same kind of mineral and who has staked out a mining claim thereon and has complied with the requirements of this Act shall be entitled to a patent without payment of the price fixed by section 96. R.S.O. 1927, c. 45, s. 99; 1931, c. 10, s. 2.

When right to free patent.

**98.** In all patents for mining claims within the Districts of Algoma, Kenora, Thunder Bay, Rainy River, Manitoulin, Sudbury and Timiskaming, and that part of the District of Nipissing which lies north of the French River, Lake Nipissing and the River Mattawan, excepting where road allowances have already been provided in a survey made or authorized by the Crown, there shall be a reservation for roads of five per centum of the quantity of land granted and the Crown or its officers may lay out roads on such mining claims where deemed proper. R.S.O. 1927, c. 45, s. 100.

Reservation for roads in patents.

**99.** Every patent for Crown lands or mining rights by which it is intended to vest in the patentee the mines and minerals therein or any part thereof or any rights in connection therewith, shall state that it is issued in pur-

Form of patent.

suance of this Act, or of the former Act under which it is issued. R.S.O. 1927, c. 45, s. 101.

Patents  
issued under  
this Act  
to vest  
minerals.

**100.** Every patent of Crown lands which purports to be issued in pursuance of this Act shall unless otherwise expressly stated vest in the patentee for the estate thereby granted all title of the Crown in such land and all mines and minerals therein. R.S.O. 1927, c. 45, s. 102.

Condition  
of patent,  
ores to be  
treated in  
Canada.

**101.**—(1) All lands, claims, or mining rights leased, patented, or otherwise disposed of under this Act on or after the 12th day of April, 1917, shall be subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined within the Dominion of Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant-Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be null and void, and the Order-in-Council so declaring shall be registered in the office of the local master of titles or registry office as the case may be, whereupon the said lands, claims or mining rights shall revert to and become vested in His Majesty, His Heirs and Successors, freed and discharged of any interest or claim of any other person or persons whomsoever. 1930, c. 8, s. 6.

Exemptions.

(2) The Lieutenant-Governor in Council is hereby authorized to exempt any lands, claims or mining rights from the operation of this section for such period of time as to him may seem proper.

Section not  
to apply in  
certain cases.

(3) This section shall not apply to iron ore, nor to the lands, claims or mining rights from which the same is mined or taken. R.S.O. 1927, c. 45, s. 103 (2-3).

Reservation  
of pine  
timber,  
rights of  
timber  
licensees.

**102.**—(1) Every patent of Crown lands sold or granted as mining lands shall contain a reservation of all pine trees and such pine trees shall continue to be the property of the Crown, and any person holding a license from the Crown to cut timber on such land may at all times during the continuance of the license enter upon the land and cut and remove such trees, and may make all necessary roads for that purpose; provided that the patentee may cut and use such trees as may be necessary for the purpose of building, fencing and fuel on the land so patented, or for any other purpose necessary for the working of the mines therein, and may also cut and dispose of all trees required to be removed in clearing such part of the land as may be necessary for mining purposes, but subject as regards pine trees to the

payment of the value thereof to the Crown or to the timber licensee or other person authorized to cut such pine trees, as the case may be; provided, however, that where such land heretofore or hereafter granted is not under timber license or in a Provincial Forest, the owner thereof may without payment of Crown dues cut thereon and use for mining purposes thereon or on any adjoining lands owned by him any trees of the variety *Pinus Banksiana*, commonly known as "jackpine"; provided further that in any mining claim staked out and recorded on or after the 26th day of March, 1918, all trees or timber of whatever kind growing or being thereon shall be reserved to the Crown, but where such trees or timber are not covered by a timber license or permit to cut the same, the holder or owner of the claim may, on application, be granted permission to cut and use such trees or timber as he may require for mining and fuel purposes, either without payment or on such terms and conditions as the Minister of Lands and Forests may impose. R.S.O. 1927, c. 45, s. 104 (1); 1931, c. 10, s. 2.

Cutting  
jackpine on  
patented  
mining  
lands.

Reservation  
of timber.

(2) Any dispute between the patentee or those claiming under him and the timber licensee or other person interested with regard to the quantity or value of the pine timber so cut or disposed or otherwise regarding the trees cut shall be determined by the Minister of Lands and Forests, whose decision shall be final.

Deter-  
mination of  
disputes.

(3) This section shall not confer upon the patentee of mining rights only any right to cut timber upon the land described in the patent. R.S.O. 1927, c. 45, s. 104 (2, 3).

Patentee  
of mining  
rights not to  
cut timber.

#### SURVEY OF CLAIM BEFORE ISSUE OF PATENT.

**103.**—(1) Before a patent of a mining claim in unsurveyed territory is issued the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant. R.S.O. 1927, c. 45, s. 105 (1); 1937, c. 44, s. 9 (1).

Survey  
of claim in  
unsurveyed  
territory  
before  
patent  
issued.

(2) The Lieutenant-Governor in Council may make regulations prescribing the method and procedure to be followed in surveying mining claims. 1937, c. 44, s. 9 (2).

Regulations  
for  
surveying.

**104.** Where upon an application for a patent of a mining claim in surveyed territory the Minister is of opinion that a survey is necessary he may direct that a survey thereof shall be made at the expense of the applicant, and such survey unless otherwise ordered shall comply with the same requirements as a survey of a mining claim in unsurveyed territory. R.S.O. 1927, c. 45, s. 106.

Minister  
may direct  
survey of  
claim in  
surveyed  
territory.



Reduction  
of area of  
claim found  
to exceed  
prescribed  
acreage.

**105.**—(1) If it is found upon a survey required or authorized by this Act that the area of a mining claim exceeds the prescribed acreage the Minister may reduce the area to the prescribed acreage or thereabouts in any way he may see fit. R.S.O. 1927, c. 45, s. 108 (1); 1937, c. 44, s. 11 (1).

When  
recorded  
claim  
includes  
lands  
accidentally  
omitted and  
disposition  
of gores and  
fractions.

(2) Where two or more mining claims in unsurveyed territory are contiguous and constitute a group recorded in the name of one licensee, and it was the manifest intention of the applicant or applicants, as shown by the sketch or sketches accompanying his or their application or applications for the same, to include as part of such mining claims all lands and lands under water within the limits of the said group, and a survey shows that certain of the lands or lands under water are not so included, such lands or lands under water shall nevertheless be deemed to be part and parcel of the claim or claims in which it was the manifest intention that they should be included, and where two or more mining claims are contiguous and are recorded in the name or names of more than one licensee, any fraction or gore shown or created by a survey shall not be open for staking out until the Minister so directs, and the Minister on the report of the Surveyor-General, may award such fraction or gore, or part thereof, to the recorded holder or holders of either or both of the contiguous claims, or may sell, lease, or otherwise dispose of the same as he may see fit without requiring such fraction or gore to be staked out as a mining claim. 1934, c. 32, s. 3.

### PART III.—PLACER MINING.

Placer  
mining  
claims.

**106.** A licensee, who makes a discovery of a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, or platinum, or precious stones, which is probably of such size and character as to be likely to be workable at a profit may stake out and record a mining claim to be called a "Placer Mining Claim," thereon, and the provisions of this Act, as to the staking out and recording of a mining claim upon the discovery of valuable mineral in place thereon, shall as far as practicable apply to the staking out of a placer mining claim as if the words "a natural stratum, bed or deposit of sand, earth, clay, gravel, or cement, carrying gold or platinum, or precious stones, which is probably of such a size and character as to be likely to be workable at a profit," were used instead of "valuable mineral in place," and the other provisions of this Act as to mining claims shall also, as far as practicable, apply to a "Placer Mining Claim," and "mining claim" wherever used in this Act shall, unless repugnant to the context, be read as including placer mining claim. R.S.O. 1927, c. 45, s. 109.



## PART IV.— PETROLEUM, GAS, COAL, AND SALT.

**107.**—(1) A licensee may obtain from the Minister a boring permit in the prescribed form, granting him the exclusive right for a period of one year to prospect for petroleum, natural gas, coal or salt upon an area of land open for prospecting and staking out in those portions of the Province lying north and west of the River Mattawan, Lake Nipissing, and the French River, by,—

- (a) staking out, or having another licensee stake out on his behalf and in his name, such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 54, and writing or placing upon each post the words "Boring permit applied for," with his name and the letter and number of his license, and where the staking out is done by another licensee also the name of such licensee and the letter and number of his license; the date of the staking out and a statement of the area to be included in the application; Boring permits to explore for oil, gas, coal or salt.
  - (b) furnishing to the recorder an application in duplicate, verified by an affidavit, in the prescribed form, within fifteen days after the staking out; Application to recorder.
  - (c) forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a written description of the same, including, if the area is in surveyed territory, the number of the lots and concessions or sections or quarter-sections or other subdivisions, together with a fee of \$100; and Forwarding plans to Minister.
  - (d) proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 93 for any injury or damage which is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by the said section 93. Compensation to owner of surface rights.
- (2) One duplicate of the application shall be forthwith posted up by the recorder in his office and the other forwarded by him to the Minister. Posting applications.

Additional  
time allowed  
on account  
of distance.

(3) If the area staked out is more than ten miles from the office of the recorder, one additional day for every additional ten miles or fraction thereof shall be allowed for furnishing the application to the recorder.

Form of  
area to be  
included in  
permit.

(4) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed six hundred and forty acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory need not be rectangular in form, but may consist of any number of contiguous lots, quarter-sections or subdivisions of a section not containing in all more than six hundred and forty acres.

Working  
conditions.

(5) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum, natural gas, coal or salt a sum amounting to not less than \$2 per acre.

Renewal of  
permit.

(6) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the same for one year upon payment of a fee of \$100, and the renewal shall be subject to the like conditions as to expenditure and otherwise as the original permit.

Transfer of  
permit.

(7) The holder of a boring permit may, with the consent of the Minister, endorsed thereon, transfer, in the prescribed form, all his rights in the permit or the land included therein, and upon the consent being given the licensee to whom the permit is transferred shall thereupon be entitled to the unexpired term of the permit, with any right of renewal thereof. R.S.O. 1927, c. 45, s. 110.

Lease may  
issue on  
discovery.

**108.**—(1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum, natural gas, coal or salt or any one or more of such substances in commercial quantities upon the land included therein, the Minister may direct the issue to the holder of the permit of a lease of the land or any portion of it for a term of ten years at an annual rental of \$1 per acre, payable in advance and subject to the expenditure of not less than \$2 per acre per annum, in obtaining petroleum, natural gas, coal or salt, or any one or more of such substances therefrom, or in actual *bona fide* operations or works undertaken or

made for the purpose of obtaining the same, and the lessee shall have the right of renewal of such lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as may then be agreed upon or provided by statute or regulations. Renewal.

(2) Every such lease shall contain such other conditions' stipulations and provisoes as the Lieutenant-Governor in Council may prescribe, and shall be forfeited and void if the rental payable thereunder is not paid when due, or upon failure to expend the money required by subsection 1 to be laid out or upon failure to comply with any of the terms and conditions of the lease. Provided that relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the same became payable. Regulations as to leases. Proviso.

(3) The right conferred by any such lease upon the lessee shall be to enter upon the land described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove petroleum, natural gas, coal and salt, or any one or more of such substances, and all other valuable minerals shall be reserved to the Crown, and any holder of a miner's license may at all times go upon the said land and prospect the same and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the land at the time and in the manner provided in section 93, and may obtain a patent therefor, but such patent shall reserve the petroleum, natural gas, coal and salt, in, on or under such land. Rights of lessee. Other minerals to be reserved.

(4) No such lease shall issue for land in unsurveyed territory until a plan in triplicate made by an Ontario land surveyor, field notes and description, shall be filed in the Department, showing a survey in conformity with this Act, and to the satisfaction of the Minister. Survey required in unsurveyed territory.

(5) The holder of a boring permit or of a lease for petroleum, natural gas, coal or salt, shall not be entitled to the timber upon the land included in such permit or lease but if the same are not covered by timber license and have not been located, sold or patented under *The Public Lands Act*, may, with the permission of the Minister of Lands and Forests, and upon payment of such rates as may be fixed, cut and use such timber or trees as may be necessary for boring and working the said land. R.S.O. 1927, c. 45, s. 111. Timber to be reserved. Rev. Stat., c. 33.

**109.** Notwithstanding anything contained in sections 107 and 108, the Minister, with the approval of the Lieutenant-Governor in Council, may make such regulations as he shall Boring permitted north of trans-continental railway.

think fit respecting the issue of boring permits authorizing the holders thereof to prospect for petroleum, natural gas, coal or salt, in that part of the Province lying north of the transcontinental railway, and for the issue of leases upon such terms as the Minister may see fit. R.S.O. 1927, c. 45, s. 112.

## PART V.—DREDGING LEASES.

Regulations as to dredging leases.

**110**—(1) The Lieutenant-Governor in Council may make regulations respecting the issue of leases authorizing the holders thereof to dredge or work in any river, stream or lake, or on lands not covered by water, for the purpose of recovering therefrom alluvial gold, platinum, precious stones, or other valuable mineral not in place, and every Order-in-Council made under this section shall take effect from the date of the first publication thereof in *The Ontario Gazette*.

Provisions to be included in dredging leases.

(2) Every such lease shall provide for the payment in advance of an annual rental of not less than twenty-five cents per acre, and shall not be for a greater term than ten years, renewable at the expiration thereof for a further term of not more than ten years, and every such lease or renewal thereof shall contain such conditions and provisions as the Lieutenant-Governor in Council may see fit. 1928, c. 16, s. 2.

## PART VI.—MINING PARTNERSHIPS.

Rights, liabilities, etc., of partnership remain in force.

**111.** All rights, liabilities and conditions pertaining to mining partnerships heretofore formed under this Act or any Act for which this Act was substituted, shall remain in full force and virtue until the expiry thereof as provided in the certificate of mining partnership. 1931, c. 10, s. 16.

## PART VII.—PROCEEDINGS IN MINING COURT.

Court to continue.

**112.**—(1) There shall continue to be a court to be known as the "Mining Court of Ontario."

Court of record,—seal.

(2) The Court shall be a court of record and shall have a seal with which all process shall be sealed or stamped. R.S.O. 1927, c. 45, s. 115.

Judge.

**113.**—(1) The Court shall be presided over by a judge to be appointed as provided by *The British North America Act, 1867*, who shall be known as the "Judge of the Mining Court."



(2) The Judge of the Mining Court shall hold office during <sup>Tenure of office.</sup> good behaviour until he attains the age of seventy-five years and shall not be removed from office except upon an address of the Assembly to the Lieutenant-Governor. R.S.O. 1927, c. 45, s. 116.

**114.** There shall be a registrar of the Court who shall be <sup>Registrar.</sup> appointed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 45, s. 117.

**115.**—(1) Except as provided by section 177, no action <sup>Jurisdiction</sup> concerning mining lands shall lie nor shall any other proceeding be taken in any other court as to any matter or thing arising under this Act whether before or after issue of the patent or involving the interpretation of the provisions thereof, or as to rights acquired or alleged to have been acquired thereunder, or as to any matter or thing involving any right or claim under this Act, and every such matter and every claim, question and dispute arising as aforesaid shall be brought and determined in the Court, and in the exercise of the powers conferred by this section the Judge may make such order and give such directions as he may deem necessary to make effectual and enforce compliance with his decision.

(2) The Judge shall have and may exercise in the Mining <sup>Powers of Judge.</sup> Court the same powers as a judge of a superior court sitting in a civil case.

(3) Every notice and every document in any matter, <sup>Style of proceedings.</sup> application or appeal coming before the Judge of the Mining Court shall be styled "in the Mining Court of Ontario." R.S.O. 1927, c. 45, s. 118.

**116.** A subpoena may issue out of the Mining Court or <sup>Witnesses and enforcing attendance.</sup> out of the Supreme Court or county or district court for the purpose of compelling the attendance of witnesses and the production of documents and things in any proceeding before the Mining Court, or before the Judge of the Mining Court, and the Judge shall also have, with respect to matters which may be dealt with by him under the provisions of this Act, all the powers of summoning and enforcing the attendance of witnesses and compelling them to give evidence and produce documents and things which the judge of a superior court or of a county or district court has in civil cases. R.S.O. 1927, c. 45, s. 119.

**117.** The Mining Court shall not have power or authority <sup>Exclusion of questions involving validity of patents.</sup> to declare forfeited and void or to cancel or annul any Crown patent issued for lands, mining lands, mining claims or mining



rights, but every action or other proceeding to declare forfeited or void or to cancel or annul any such Crown patent may be brought or taken in the Supreme Court and shall be heard and determined in the same manner as if *The Mining Court Act, 1924*, had not been passed. R.S.O. 1927, c. 45, s. 120.

Transfer of proceedings to Supreme Court.

**118.** A party to any proceeding under this Act brought in the Mining Court and involving any right, privilege or interest in, or in connection with any patented lands, mining lands, mining claims or mining rights, may at any stage of such proceeding apply to the Supreme Court for an order transferring the proceeding to the Supreme Court. R.S.O. 1927, c. 45, s. 121.

Illness or absence of Judge.

**119.** In case of the illness or absence of the Judge of the Mining Court the Minister or Judge may appoint some other person, being a barrister of at least ten years' standing at the bar of Ontario, to act in place of the Judge and the person so appointed shall in that case have and exercise all the powers of the Judge except those which he derives exclusively from his appointment under any commission issued to him by the Governor-General of Canada. R.S.O. 1927, c. 45, s. 122.

Referring actions, etc., to Judge.

**120.** Where in the opinion of the court in which an action is brought, the proceedings may be more conveniently dealt with or disposed of by the Mining Court, the court may, upon the application of any party or otherwise, and at any stage of the proceedings, refer the action or any question therein to the Judge of the Mining Court as an official referee, on such terms as to the court may seem just, and the Judge of the Mining Court shall thereafter give directions for the continuance of the proceedings before him, and, subject to the order of reference, all costs shall be in his discretion. R.S.O. 1927, c. 45, s. 123.

Transfer of proceedings to Mining Court.

**121.** Where a proceeding is brought in any court which should have been taken before the Mining Court, the court or judge may upon the application of any party or otherwise, and at any stage of the proceeding transfer it to the Mining Court, except as provided by this Act. R.S.O. 1927, c. 45, s. 124.

Rules.

**122.** The Lieutenant-Governor in Council may make rules:

- (a) prescribing the practice and procedure in the Court;
- (b) respecting the officers of the Court;

(c) respecting the sittings of the Court and the places at which such sittings shall be held; and

(d) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 45, s. 125.

**123.** The Judge shall also have all the powers which by *The Public Lands Act* are conferred on commissioners appointed under the authority of that Act. R.S.O. 1927, c. 45, s. 126.

Preventing  
trespasses  
on public  
lands.

Rev. Stat.,  
c. 33.

#### POWERS OF RECORDER.

**124.**—(1) Subject to appeal as hereinafter provided, a recorder, as to unpatented mining claims situate in a mining division, shall have power to hear and determine disputes arising between licensees.

Deter-  
mination of  
disputes by  
recorder.

(2) Any question arising prior to the issue of a certificate of record of a mining claim as to whether the provisions of this Act regarding a mining claim, have been complied with, unless the Judge otherwise orders or unless the recorder with the consent of the Judge transfers such question to the Judge for his decision, shall in the first instance be decided by the recorder.

When  
recorder to  
decide  
matter in  
first  
instance.

(3) The recorder shall forthwith enter in the books of his office a full note of every decision made by him, and shall notify the persons affected thereby of such decision by registered letter mailed not later than the next day after the entry of such note.

Note of  
decision to  
be made by  
recorder.

(4) Every person affected by the decision shall be entitled upon payment of the prescribed fee to receive from the recorder a certificate thereof which shall contain the date of the entry of such decision in the books of the recorder.

Certificate  
of decision.

(5) The decision of the recorder shall be final and binding unless appealed from as in this Act provided. R.S.O. 1927, c. 45, s. 127.

Finality  
of decision.

**125.**—(1) The recorder may give directions for the conduct and carrying on of the proceedings before him, and in so doing he shall adopt the cheapest and most simple methods and machinery for determining the questions raised before him.

Recorder  
may direct  
proceedings  
before him.

(2) Where no such directions are given, the provisions relating to procedure before the Judge as far as the same may be applicable, shall apply.

Where no  
direction.

Costs.

(3) The recorder shall not have power to award costs, but may in his discretion allow the fees and conduct money of witnesses and may direct by whom the same shall be paid. R.S.O. 1927, c. 45, s. 128.

#### ENFORCEMENT OF ORDERS.

Making order of Mining Court or recorder a judgment of the court.

**126.** A duplicate of any order made by the Mining Court or by a recorder may be filed in the office of the Registrar of the Supreme Court or in the office of the clerk of the county or district court of the county or district in which the land lies, and upon being so filed shall become an order of the court in which it is filed and shall be enforceable as an order of such court, but the court or a judge thereof may stay proceedings thereon if an appeal is brought from the order. R.S.O. 1927, c. 45, s. 129.

#### APPEALS FROM RECORDER.

Right to appeal from recorder to Judge.

**127.**—(1) A person affected by the decision of, or by any act or thing, whether ministerial or judicial, done, or refused or neglected to be done by the recorder, may appeal to the Judge who shall decide the matter and make such order in the premises as he may deem just.

Admission of further evidence on appeal.

(2) Upon an appeal from the decision of the recorder the Court may require or admit new or additional evidence or may retry the matter.

Mode of appealing.

(3) The appeal shall be by notice in writing in the prescribed form, filed in the office of the recorder, and served upon all parties adversely interested within fifteen days from the entry of the decision on the books of the recorder, or within such further period not exceeding fifteen days, as the Court may allow; Provided that if notice of appeal has been filed with the recorder within the said time, and the Court is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Court may extend the time for appealing and make such order for substitutional or other service as may be deemed just; Provided also that where a person affected has not been notified as provided in sections 91 and 124, and appears to have suffered substantial injustice and has not been guilty of undue delay, the Court may allow such person to appeal.

(4) The notice of appeal shall contain or have endorsed upon it an address for service at some place not more than five miles distant from the recorder's office, and any notice or document relating to the appeal shall be sufficiently served upon the appellant if left with a grown-up person at such place, or if no such person can there be found then if mailed by registered post addressed to the appellant at the post office at or nearest to such place.

Address  
for service  
to be on  
notice of  
appeal.

(5) If no address for service is given as provided in subsection 4, any such notice or document may be served upon the appellant by posting up the same in the recorder's office.

Mode of  
service when  
no address  
given.

R.S.O. 1927, c. 45, s. 130.

#### APPEAL TO MINISTER.

**128.**—(1) An appeal shall lie from any decision of the Court in respect to any ministerial duty of the recorder to the Minister only, and the decision of the Minister shall be final and shall not be subject to appeal.

Appeal to  
Minister as  
to ministerial  
acts of  
recorder.

(2) The appeal to the Minister shall be by notice in writing filed with the Department and served upon every adverse party within fifteen days after the date of the decision of the Court, or within such further time as may be allowed by the Minister. R.S.O. 1927, c. 45, s. 131.

Mode of  
appealing to  
Minister.

#### PROCEDURE BEFORE JUDGE.

**129.**—(1) An appointment shall be obtained from the Judge for the hearing of an appeal or of a dispute mentioned in section 61 or of any claim, question or dispute cognizable by the court.

Obtaining  
appoint-  
ment.

(2) In any matter or proceeding other than an appeal the court may, if a certificate of record has been issued, require that the applicant shall satisfy him that there is reasonable ground for the application or may in any such case, or in any case where leave to take the proceeding is necessary, give the appointment or leave only upon such terms as to security for costs or otherwise as may seem just.

Material.

(3) The appointment may be obtained upon a verbal or written application.

Application  
for appoint-  
ment.

(4) A copy of the appointment shall be served upon all parties concerned, and except in the case of an appeal

Service of  
appoint-  
ment.



or dispute under section 61, a notice, in the prescribed form, stating shortly the nature and particulars of the right, question or dispute, shall also be served. R.S.O. 1927, c. 45, s. 132.

Judge  
to give all  
necessary  
directions.

**130.**—(1) The Judge may give directions for having any matter or proceeding heard and decided without unnecessary formality, may order the filing, serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments, may give such other directions for the procedure and hearing as he may deem proper, and may make any appointment, notice or other proceeding returnable forthwith or at such time as he may deem proper, and may order or allow such substituted or other service as in the circumstances may seem proper.

Place of  
hearing.

(2) In appointing the place of hearing, the Judge shall select the place that he may deem most convenient for the parties within the county or district or one of the counties or districts in which the lands or mining rights affected are situate, unless it appears to him desirable that the hearing should be in some other county or district.

Hearing to  
be proceeded  
with  
promptly.

(3) The hearing shall be proceeded with as promptly as possible, having regard to the interests of the parties concerned.

Taking  
evidence.

(4) The Judge may take or order the evidence of any witness to be taken at any place within or without Ontario.

Inter-  
locutory  
applications.

(5) The Judge may hear and dispose of any application not involving the final determination of the matter or proceeding at any place he may deem convenient, and his decision upon any such application shall be final and shall not be subject to appeal. R.S.O. 1927, c. 45, s. 133.

Judge  
may obtain  
expert  
assistance.

**131.** The Judge may obtain the assistance of engineers, surveyors, or other scientific persons, who may under his order view and examine the property in question, and in giving his decision he may give such weight to their opinion or report as he may deem proper. R.S.O. 1927, c. 45, s. 134.

Judge  
may call for  
evidence, or  
proceed on  
view.

**132.**—(1) The Judge, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as he may deem proper, and may view and examine the property in question and give his decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed.

Statement  
of view or  
of special  
knowledge.

(2) Where the Judge proceeds partly on a view or on any special knowledge or skill possessed by himself, he shall put



in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight which should be given thereto.

(3) When the parties consent in writing, the Judge may proceed wholly upon a view, and in such case his decision shall be final and shall not be subject to appeal. R.S.O. 1927, c. 45, s. 135. Judge proceeding wholly on view.

**133.** The Judge shall give his decision upon the real merits and substantial justice of the case. R.S.O. 1927, c. 45, s. 136. Judge's decision to be upon the merits.

**134.** Where the Judge deems the matter or proceeding vexatious, or where it is brought by a person residing out of Ontario, he may order that such security for costs as he may deem proper be given, and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. R.S.O. 1927, c. 45, s. 137. Security for costs.

**135.** Where the hearing is to take place at a place where a court house is situate, the Judge shall have the right to use the court room and where the hearing is to take place in a municipality in which there is a hall belonging to the municipality, but no court room, he shall have the right to use such hall. R.S.O. 1927, c. 45, s. 138. Right to use court room.  
Right to use town hall.

**136.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Judge in the exercise of the powers conferred on him by this Act, whenever required so to do, and shall upon the certificate of the Judge be paid by the treasurer of the county or district the same fees as for similar services in carrying out the orders of a judge of the Supreme Court. R.S.O. 1927, c. 45, s. 139. Sheriffs, etc., to assist Judge.

**137.** The evidence taken before the Judge need not be filed, or written out at length by the shorthand writer unless required by the Judge or by a party to the proceedings, and copies shall be furnished upon the same terms as in cases in the Supreme Court. R.S.O. 1927, c. 45, s. 140. When notes need not be extended.

#### COSTS AND WITNESS FEES.

**138.** The Judge may in his discretion award costs to any party, and may direct that such costs be taxed by the clerk of the county or district court or by a local taxing officer or by one of the taxing officers at Toronto, or may order that a lump sum be paid in lieu of taxed costs. R.S.O. 1927, c. 45, s. 141. Costs.

Scale  
of costs.

**139.**—(1) The costs and disbursements payable upon proceedings before the Judge, as to any matter in which the amount or value of the property in question does not in the opinion of the Judge exceed \$400, shall be according to the tariff of the county court, and as to any matter in which the amount or value of the property in question in his opinion exceeds \$400, shall be according to the tariff of the Supreme Court.

Judge to  
decide as  
to scale.

(2) The Judge shall in his order or award direct according to which tariff the costs and disbursements shall be taxed.

Counsel fees.

(3) The Judge shall have the same powers as a judge of a county court or a taxing officer of the Supreme Court with respect to counsel fees. R.S.O. 1927, c. 45, s. 142.

Witness  
fees and  
conduct  
money.

**140.** The fees and conduct money to be paid to a witness before the Judge or recorder shall be according to the county court scale. R.S.O. 1927, c. 45, s. 143.

#### DECISIONS.

Decision to  
be in form of  
order or  
judgment.

**141.**—(1) Except where inapplicable, the decision of the Mining Court shall be in the form of an order or judgment, but need not show upon its face that any proceeding or notice was had or given, or that any circumstance existed necessary to give jurisdiction to make such order or judgment.

Filing  
order or  
judgment.

(2) The order or judgment of the court, with the evidence, exhibits, the statement, if any, of view or of special knowledge or skill and the reasons for his decision if any are given, shall be filed in the Department, or in the office of the recorder, as may be directed by the Judge, and the officer or person in charge of such office shall forthwith give notice in writing of the filing by registered post or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor.

Duplicate  
to be trans-  
mitted to  
recorder.

(3) Where the order or judgment is not filed with the recorder of the division in which the property affected is situate the Judge shall transmit a duplicate to such recorder. R.S.O. 1927, c. 45, s. 144.

Entry  
of note of  
decision.

**142.**—(1) The Judge shall make in the books of his office a full note of every decision given by him.

Notice of  
final decision  
to be given  
to parties.

(2) Where a decision of the Judge finally disposes of the matter in question so far as he is concerned he shall give notice of the purport of such decision to the parties to the

proceeding by registered letter addressed to them at their addresses as entered in his books. R.S.O. 1927, c. 45, s. 145.

**143.** Any party to a proceeding shall be entitled on payment of the prescribed fee to a certified copy of any order or judgment, and the copy shall show the date of the entry of the order or judgment in the books of the Judge. R.S.O. 1927, c. 45, s. 146.

Parties to be entitled to certified copy of order or judgment.

#### APPEALS FROM JUDGE.

**144.** Where not herein otherwise provided, an appeal shall lie to the Court of Appeal from every decision of the Mining Court, including an order dismissing a matter or proceeding under the provisions of section 134. R.S.O. 1927, c. 45, s. 147.

Appeal to Court of Appeal.

**145.—(1)** Except in the case provided for by section 120 and in the case of a reference under *The Arbitration Act*, the order or judgment of the Court shall be final and conclusive unless where an appeal lies it is appealed from within fifteen days after the filing thereof or within such further period not exceeding fifteen days as the Judge or a judge of the Supreme Court may allow.

Time for appealing.  
Rev. Stat., s. 109.

(2) The appeal shall be begun by filing a notice of appeal with the recorder of the division in which the property in question or a part of it is situate and paying to him the prescribed fee, and unless such filing and payment are so made, and unless the appeal is set down and a certificate of such setting down lodged with the recorder within five days after the expiration of said fifteen days or the further time allowed under subsection 1 the appeal shall be deemed to be abandoned. R.S.O. 1927, c. 45, s. 148 (1, 2).

Notice of appeal.

(3) The recorder and in cases where section 21 applies, the Deputy Minister shall forthwith after the filing of the notice of appeal and the payment of the prescribed fee, transmit by registered post or by express to the Central Office at Osgoode Hall, Toronto, the order or judgment and all the exhibits, papers and documents filed therewith. R.S.O. 1927, c. 45, s. 148 (3); 1937, c. 44, s. 12.

Recorder to transmit proceedings to Central Office.

(4) Where the time for appealing is extended the appellant shall forthwith transmit the order for the extension, or a duplicate thereof, by registered post to the recorder. R.S.O. 1927, c. 45, s. 148.

Order extending time for appeal to be sent to recorder.

## PROCEDURE ON APPEALS.

Procedure  
on appeals.

Rev. Stat.,  
c. 100.

**146.** The practice and procedure, including the disposition of costs, on an appeal shall be the same as in ordinary cases under *The Judicature Act*. R.S.O. 1927, c. 45, s. 149.

## VALIDITY OF PROCEEDINGS BEFORE JUDGE OR RECORDER.

Proceed-  
ings under  
Act not  
remov-  
able by  
certiorari,  
etc.

**147.** Save as herein provided proceedings under this Act shall not be removable into any court by certiorari or otherwise, and no injunction, mandamus or prohibition shall be granted or issued out of any court in respect of anything required or permitted to be done by any officer appointed under the authority of this Act. R.S.O. 1927, c. 45, s. 150.

Validity of  
proceedings  
not to be  
affected by  
informality.

**148.** No proceeding before the Mining Court or a recorder shall be invalidated by reason of any defect in form or substance or failure to comply with the provisions of this Act, where no substantial wrong or injustice has been thereby done or occasioned. R.S.O. 1927, c. 45, s. 151.

## POWER TO EXTEND TIME AFTER EXPIRATION OF PRESCRIBED TIME.

Expiration  
of time for  
doing any  
act.

**149.** Where power is conferred by this Act to extend the time for doing an act or taking a proceeding unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. R.S.O. 1927, c. 45, s. 152.

## PART VIII.—OPERATION OF MINES.

## REGULATIONS.

Interpre-  
tation.

**150.—(1)** In this Part,—

“Author-  
ized.”  
“Qualified.”

(a) “Authorized” shall mean properly authorized to perform any specified duty or to do any specified act, and “qualified” shall mean properly qualified to perform any specified duty or do any specified act;

“Chief  
Inspector,”  
“Inspector.”

(b) “Chief Inspector” shall mean Chief Inspector of Mines for Ontario, and “Inspector” shall mean an Inspector of Mines for Ontario;



- (c) "Manager" shall mean the person responsible for the control, management and direction of a mine or works; <sup>"Manager."</sup>
- (d) "Owner" when used in Parts VIII and IX of this Act shall include every person, mining partnership, and company being the immediate proprietor or lessee or occupier of a mine, or of any part thereof, or of any land located, patented or leased as mining lands but shall not include a person, or a mining partnership or company receiving merely a royalty, rent or fine from a mine or mining lands, or being merely the proprietor of a mine or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals. <sup>"Owner."</sup>

(2) Subject to the requirements of this Act, and except as otherwise herein provided, responsibility for the authorization and decisions as to the qualifications of the employees shall rest with the employer or his agent. 1930, c. 8, s. 7, *part*. <sup>Responsibility as to qualifications.</sup>

*Employment in and about Mines.*

**151.**—(1) No male person under the age of sixteen years shall be employed in or about any mine, and no male person under the age of eighteen years shall be employed below ground in any mine. <sup>Restrictions on employment of children.</sup>

(2) No girl or woman shall be employed in or about any mine except in a technical, clerical or domestic capacity. 1930, c. 8, s. 7, *part*. <sup>Girls and women.</sup>

**152.**—(1) There shall be provided and maintained mine rescue stations at such points in the Province as the Minister may direct and each of such stations shall be equipped and kept in such manner as may be directed by the Chief Inspector. <sup>Rescue stations.</sup>

(2) The Workmen's Compensation Board of Ontario shall provide the funds necessary for the establishment, equipment and maintenance of each of such rescue stations at the expense of the mining industry and such funds shall be payable out of moneys assessed and collected from time to time from the mining industry. <sup>Workmen's Compensation Board to provide funds.</sup>

(3) Each rescue station and its equipment shall be in charge of such person or persons as may be designated and appointed by the Chief Inspector and it shall be the duty of <sup>Person or persons in charge to train rescue crews.</sup>

such person or persons to teach and train mine rescue crews in the use and maintenance of the apparatus and to maintain the apparatus in efficient and workable condition so as to be always available for immediate use.

Duty of owner, agent and manager as to training of rescue crews.

(4) It shall be the duty of the owner, agent and manager of every mine to cause such number of workmen as the Inspector shall deem necessary, to be trained in the use and maintenance of rescue apparatus. 1930, c. 8, s. 7, *part*.

Hours of labour underground.

**153.**—(1) No workmen shall remain or be allowed to remain underground in any mine for more than eight hours in any consecutive twenty-four hours, which eight hours shall be reckoned from the time he arrives at his place of work in the mine until the time he leaves such place, provided however, that,—

Proviso.

- (a) A Saturday shift may work longer hours for the purpose of avoiding work on Sunday or changing shift at the end of the week or giving any of the men a part holiday;
- (b) The said limit of time shall not apply to a foreman' pump man, cage-tender, or any person engaged solely in surveying or measuring, nor shall it apply in cases of emergency, where life or property is in imminent danger, or in any case of repair work or to any mine where the number of men working in a shift does not exceed six.

Hours of operator of hoisting engine.

(2) No person shall operate or be permitted to operate, either on the surface or underground, any hoisting engine by means of which persons or material are hoisted, lowered or handled in any shaft or winze, for more than eight hours in any consecutive twenty-four hours, except,—

Absence of hoistman.

- (a) that in the event of one of the regular hoistmen being absent from duty through sickness or otherwise and where no competent substitute is available the remaining hoistman or hoistmen may work extra time not exceeding four hours each in any consecutive twenty-four hours for a period not exceeding ten days;

Less than three shifts per day.

- (b) that in any case where the work at any mine or in any shaft or winze at any mine is not carried out continuously on three shifts per day, in which case the hoistman may work such extra time as may be necessary for hoisting or lowering the workmen employed on the shift at the beginning and end of each shift;

(c) in the cases provided for in clauses *a* and *b* of sub-section 1. Saturday shift, emergencies.

(3) In this section,—

Interpretation.

(a) "Workman" shall mean any person employed underground in a mine who is not the owner or agent or an official of the mine: "Workman."

(b) "Shift" shall mean any body of workmen whose hours for beginning and terminating work in the mine are the same or approximately the same: "Shift."

and where any question or dispute arises as to the meaning or application of clause (b) of subsection 1, or as to the meaning of "workman," "shift," or "underground," the certificate of the Inspector shall be conclusive. Certificate of Inspector.

(4) For greater certainty it is hereby declared that sections 174, 175 and 176 shall apply to contraventions of this section; provided, however, that a workman shall not be guilty of an offence for failure to return to the surface within the time limited by this section if he proves that without fault on his part he was prevented from returning owing to means not being available for the purpose. Application of sections as to penalties.

(5) In the event of great emergency or grave economic disturbance, the Lieutenant-Governor in Council may suspend the operation of this section to such an extent and for such period as he deems fit; or as regards any iron mine, the Lieutenant-Governor in Council may upon the recommendation of the Minister, in like manner suspend the operation of this section in so far as such mine is concerned. Suspension of operation of section.

(6) This section shall have effect and shall be deemed to have had effect from the 1st day of January, 1914, in all parts of the Province without county organization, and as to the remaining parts of the Province this section shall come into force and have effect at such time as may be named by the Lieutenant-Governor by his Proclamation. 1930, c. 8, s. 7, *part.* Commencement of section.

**154.**—(1) No person under the age of twenty years and no person who has not had adequate experience on a reversing hoist shall be allowed to have charge of any hoisting engine by means of which persons are hoisted, lowered or handled in a shaft or winze at any time. Age limit, hoistmen, handling men.

(2) No person under the age of eighteen years shall be allowed to have charge of any hoisting engine or hoisting apparatus of any kind at a mine. Age limit.

Hoistman to  
be holder of  
medical  
certificate.

(3) No person shall operate or be permitted to operate any hoisting engine used in raising or lowering persons, or for any other purpose designated by the Inspector, unless such person is the holder of a subsisting certificate from a duly qualified medical practitioner to the effect that such person has been examined and that he is not subject to any infirmity, mental or bodily, or that his sight or hearing are not defective to such a degree as to interfere with the efficient discharge of his duties.

(a) Every such certificate shall lapse and be deemed to have expired at the end of one year from the date thereof. 1930, c. 8, s. 7, *part*.

Examination  
for presence  
of silicosis.

Rev. Stat.,  
c. 204.

**155.**—(1) Every workman employed underground in any mine shall be examined by a medical officer appointed under the provisions of *The Workmen's Compensation Act* relating to silicosis at least once in every twelve months, and every applicant for underground work to whom the certificate mentioned in subsection 2 has not been issued shall be so examined. 1930, c. 8, s. 7 *part*.

Certificate  
of freedom  
from disease

(2) If the medical officer finds upon examination that the workman is free from diseases of the respiratory organs and fit for work underground, he shall certify in the prescribed form that such is the case and shall deliver the same to the workman. 1933, c. 33, s. 5.

Term of  
certificate.

(3) Every such certificate shall remain in force for not more than twelve months from the date of issue, and if so required by the manager or superintendent of the mine in which the workman is employed, it shall be delivered to and remain in the custody of such manager or superintendent during the period of the workman's employment, and shall be returned to him on his being discharged from or leaving the same.

Ore or rock  
crushing  
operations  
at surface.

(4) A like certificate shall be required in the case of a workman engaged in any ore or rock-crushing operation at the surface of the mine except where the ore or rock is crushed in water or a chemical solution and is kept constantly in a moistened or wet condition.

(5) Except as provided in subsection 4 a workman as to whom such a certificate is not in force shall not be employed in underground work in any mine or in ore or rock-crushing operations at the surface of any mine.

Exemptions.

(6) The Chief Inspector may exempt from the foregoing provisions of this section such mines as do not contain silica in quantity likely to produce silicosis, or which for any other



good and sufficient reason the said Chief Inspector deems should be exempt, nor shall such provisions apply to workmen employed underground for a less period than fifty hours in any one calendar month.

(7) The Lieutenant-Governor in Council may make regulations prescribing the nature of the medical examination to be made and the form of certificate to be issued under the foregoing provisions of this section and generally for the better carrying out of the requirements of this section. 1930, c. 8, s. 7, *part.* Regulations.

**156.** Where a contravention of sections 151, 153 or 154 takes place, the owner or agent of the mine, or both of them, may be proceeded against, jointly or separately, and may be convicted of such offence, but neither the owner nor the agent shall be so convicted if he proves that the offence was committed without his knowledge or consent, and that he had caused notices of the said sections to be posted up, and to be kept posted up, at some conspicuous place at or near the entrance to the mining work. 1930, c. 8, s. 7, *part.* Penalty for employment of persons contrary to Act.

**157.**—(1) Where a mine has been abandoned or the work therein has been discontinued, the owner or lessee thereof or any other person interested in the mineral of the mine shall cause the top of the shaft and all entrances from the surface as well as all other pits and openings dangerous by reason of their depth, to be and to be kept securely fenced to the satisfaction of the Inspector. Fencing of abandoned or unworked mines

(2) Every such person who, after notice in writing from the Inspector fails to comply with his directions as to such fencing within the time named in the notice shall be guilty of an offence against this Act. Failure to erect fence after notice.

(3) Where the Inspector finds that any such fencing is required in order to avoid danger to health or property he may cause the work to be done and may pay the costs incurred out of any moneys provided for the purposes of this Act, and the amount of such costs, with interest thereon, shall be a lien and charge upon the mine or mining work, and no further transfer or other dealings with the mine or mining work shall take place until such amount is paid. When Inspector may erect.

(4) The amount of such costs with interest thereon shall be due from the owner or lessee to the Crown and recoverable at the suit of the Inspector in any court of competent jurisdiction. 1930, c. 8, s. 7, *part.* Recovery of costs of work.

*Inquest to be Held in Case of Fatality.*

Coroner to hold inquest in case of fatality in a mine.

**158.**—(1) The coroner who resides nearest to a mine wherein or in connection wherewith any fatal accident has occurred, shall forthwith conduct an inquest, but if he is in any way in the employment of the owner or lessee of the mine he shall be ineligible to act as coroner, and any other coroner shall, upon application by any person interested, forthwith issue his warrant and conduct such inquest, and this section shall be his authority for so doing whether his commission extends to such territory or not.

Right of the Inspector or his representatives to be present at inquest.

(2) The Inspector and any person authorized to act on his behalf shall be entitled to be present and to examine or cross-examine any witness at every inquest held concerning a death caused by an accident at a mine, and if the Inspector or someone on his behalf is not present, the coroner shall, before proceeding with the evidence adjourn the inquest and give the Deputy Minister not less than four days' notice of the time and place at which the evidence is to be taken. 1930, c. 8, s. 7, *part*.

## RULES.

*Rules for Protection of Miners.*

Suspension of rule

**159.**—(1) Where the owner, agent or manager of a mine by his application in writing stating his reasons therefor, requests the Inspector to suspend the requirements of any rule under section 160 as to such mine, the Inspector may in writing direct that the requirements of such rule shall not apply to such mine, or may in writing direct that such rule shall not apply so long as such limitations and conditions as he may see fit to impose, are observed or complied with.

Cancel-lation of suspension.

(2) The Chief Inspector may at any time cancel any order made under subsection 1, or make such alterations therein as he may deem proper in view of any change in the conditions under which such order was made or upon it appearing to him that such change, for any other cause, is advisable.

Manager of mine may make rules.

(3) The manager of a mine may make rules not inconsistent with any rule herein set out, or any special direction made by an Inspector as hereinbefore provided, for the maintenance of order and discipline and the prevention of accidents in the mine, and may submit any rule so made to the Chief Inspector, who shall lay the same before the Minister for his approval, and upon such approval being given the rules shall take effect

after they have been posted up in a conspicuous place at the mine for at least fourteen days, provided that the Minister may disallow any of such rules or direct such changes to be made in them as he may deem proper.

- (a) Every such rule after approval and when and so long as it is posted up and is legible shall have the same force and effect as the rules and regulations set out in this Act and any person who contravenes any such rule shall incur the penalty provided for a breach of the rules and regulations contained in this Act.

(4) Except as to any rules which the Inspector has directed shall not be applicable thereto, the manager of the mine shall take all necessary and reasonable measures to enforce the requirements of the rules set forth in section 160 and to ensure that they are observed by every employee of the mine, and every foreman, mine captain, shift boss and department head shall take all necessary and reasonable measures to enforce the requirements of all such rules as are applicable to the work over which he has supervision and to ensure that the same are observed by the workmen under his charge or direction. Every person through whose neglect or wrongful act a contravention shall occur shall be deemed to have incurred the penalties provided for a breach of the rules.

Responsibility as to carrying out rules.

(5) Where work in or about a mine is let to a contractor or subcontractor, he shall comply and enforce compliance with all the rules and provisions of this Part pertaining to the work over which he has control and shall in any case of non-compliance therewith be guilty of an offence and punishable in like manner as if he were owner or agent. 1930, c. 8, s. 7, *part.*

Liability of contractors and sub-contractors.

**160.** Subject to the provisions of section 159, the following rules shall be observed and carried out at every mine:

Duty as to knowledge of rules.

(1) It shall be the duty of every manager, superintendent, mine captain, shift boss and every person in charge of workmen or who handles explosives or who operates machinery or electrical apparatus in or about a mine, to know such of these rules as apply to the work in which he is engaged.

(2) Every person employed as an underground foreman, meaning thereby one who is exclusively engaged in supervising the work of other men, shall be able to give and to receive and understand orders in the English language.

Underground foreman to be able to speak English.

Suspension for unfamiliarity with rules. (3) The Inspector shall have the right to suspend any foreman or mine captain who is unfamiliar with, or does not understand the rules governing the operation of mines as contained in this Act.

*Fire Protection.*

Removal of inflammable material. (4) No inflammable refuse shall be allowed to accumulate underground, but shall be removed from the workings at least once a week and brought to the surface and there disposed of in a suitable manner.

Certificate as to amount of inflammable material. (5) Every shift boss and mine captain shall certify in writing to the mine manager at least once a week that there is no accumulation of inflammable refuse underground in the area under his supervision except as reported by him.

Oil and grease. (6) Oil and grease kept underground shall be contained in suitable metal receptacles and the amount so kept shall not exceed the requirements for seven days.

Timber. (7) All timber not in use in a mine shall as soon as practicable be taken from the mine and shall not be piled up and permitted to decay therein.

Underground buildings to be fire-proofed. (8) All underground buildings or enclosures necessary for the housing and maintenance of machinery and equipment shall be so constructed as to reduce the fire hazard to a minimum.

Storage of carbide. (9) Calcium carbide shall be stored on the surface only, in a suitable dry place and in its original container. It shall only be taken into a change house or shaft house in sufficient quantity for the day's use, and such precautions shall be taken as will ensure its being safely handled. No carbide shall be taken underground except in suitable containers.

Fire-fighting appliances. (10) Suitable fire-fighting appliances shall be installed at all underground crushers, tipples and in dry shafts.

Escape-ment shafts. (11) In every mine where a vertical or inclined shaft has been sunk to a greater depth than one hundred feet and lateral workings have been extended for a distance of two hundred feet or more from the shaft and stoping has commenced there shall be provided and maintained, in addition to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is extracted, a separate escapement shaft or opening. Such auxiliary exit shall not be less than fifty feet from the main hoisting shaft. Any structure covering such auxiliary exit shall be of such material and so



constructed as to reduce the fire hazard to a minimum. If such an escapement shaft or opening is not in existence at the time that stoping is commenced, work upon it shall be begun as soon as stoping is commenced and shall be diligently prosecuted until the same is completed and means of escapement other than the main shaft shall be provided to and connected with the lowest level on which stoping operations are being carried on. The escapement shaft or opening shall be of sufficient size to afford an easy passageway, and shall be provided with good and substantial ladders from the deepest workings to the surface. With the exception of any erection used solely as a shaft house, no permanent building, for any purpose, shall be erected within fifty feet of the mouth of a mine, unless there is such an auxiliary exit.

(12) Legible signs showing the way to emergency exits shall be posted in prominent places underground and all workmen shall be instructed as to the location of auxiliary exits. Legible signs showing exits.

(13) Every mine producing over one hundred tons of ore per day shall be equipped with a suitable apparatus for giving a warning signal to the men underground. Until such time as the Chief Inspector shall direct otherwise an approved apparatus for the introduction of ethyl mercaptan into the compressed air line shall be made available and kept ready for instant use for the foregoing purpose. Equipment for warning workmen underground.

(14) No boiler shall be installed within one hundred feet of the collar of any shaft. Installation of boilers.

(15) Where practicable, there shall be a sufficient number of fire doors installed underground in every mine to cut off the shaft from the other workings of the mine. Fire doors.

(16) Where the Chief Inspector deems it necessary or advisable for the protection of workmen employed underground, he may order refuge stations to be provided and maintained at such places within the mine as he may direct and every such refuge station shall have water, air and telephone connections to the surface and be separated from the adjoining workings by closeable openings so arranged and equipped that gases can be prevented from entering the refuge station. Refuge stations within mines.

(17) (a) Where the Chief Inspector deems it necessary or advisable for the protection of workmen employed underground he may recommend in writing, to the Minister, that a connection between mines be established at such place as Connection between mines.

he deems advisable and he may further recommend that such connection be so made and equipped as to constitute a refuge station or refuge stations. Upon the approval by the Minister of any such recommendation a copy thereof, accompanied by a copy of this regulation shall be served personally upon or mailed by registered post to the owner or the agent and the manager of each of the mines affected.

(b) Upon the approval of any such recommendation of the Chief Inspector the Minister may in writing signed by him appoint a committee of three persons who shall determine,—

- (i) the design, specifications and locations of the connecting passages, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected;
- (ii) the work to be done by each of the mines affected and the proportion in which the cost of such work and of establishing and maintaining the connection shall be borne by the owners of the mines affected;
- (iii) the time at which such work in compliance herewith shall be commenced and completed;
- (iv) the proportion in which the costs and expenses of the committee shall be borne by the owners of the mines affected;
- (v) such other provisions or requirements as in the premises they may deem necessary or advisable.

(c) The committee shall submit a report in writing to the Minister and a report of the majority of the committee shall be deemed to be the finding of the committee.

(d) Upon the approval by the Minister of the report of the committee the Chief Inspector may issue his order for the establishment and maintenance of such connection and refuge station or stations (if any recommended) in accordance with the terms of such report. A copy of the report shall be attached to the order and form a part thereof. No such order shall be subject to appeal upon any ground whatsoever but shall be enforceable in the same manner as any order of the Chief Inspector.

*Aid to Injured.*

Stretchers  
for con-  
veyance of  
injured  
persons.

(18) At every mine there shall be maintained a sufficient number of properly constructed stretchers for the proper handling and transporting of persons who may be injured in the discharge of their duties about the mine.

(19) There shall be provided and maintained at every mine for the treatment of anyone injured such first aid supplies as are required by the regulations of *The Workmen's Compensation Act*. Supplies for first aid.  
Rev. Stat.,  
c. 204.

(20) At every mine or works where poisonous or dangerous compounds, solutions or gases are used or produced there shall be kept in a conspicuous place as near the same as practicable, a sufficient supply of satisfactory antidotes and washes for treating injuries received from such compounds, solutions or gases. Such antidotes and washes shall be properly labelled, and explicit directions for their use affixed to the boxes containing them. Antidotes  
and washes.

#### *Prevention of Dust.*

(21) In every mill or plant where, by reason of dry crushing or otherwise, there is in the air of the building dust in quantity to be injurious to health, suitable apparatus shall be installed for its removal. Removal  
of dust.

#### *Handling Water.*

(22) Every working mine shall be provided with suitable and efficient machinery and appliances for keeping the mine free from water, the accumulation or flowing of which might endanger the lives of workmen in such mine or in any adjoining mine. Safety  
from water.

(23) Where there is or may be an accumulation of water any working approaching the same shall have bore holes kept in advance, and such additional precautionary measures shall be taken as may be deemed necessary to obviate the danger of a sudden breaking through of the water. Bore holes  
necessary  
when  
approaching  
places likely  
to contain  
dangerous  
amount of  
water.

(24) Every dam or bulkhead and its location shall be clearly shown on the mine plan, and in the design of every such dam or bulkhead the calculations shall be based on a factor of safety of ten and the structure erected in accordance with such calculations. Dams and  
bulkheads.

(a) No such dam or bulkhead shall be erected without the permission of the inspector being first had and obtained.

(b) This rule shall not apply in the case of a small structure less than three feet in height used solely for diverting the ordinary level drainage and which does not impound any appreciable volume of water.

*Ventilation.*

**Ventilation.** (25) The ventilation in every mine shall be such that the air in all of its workings that are in use or are to be used by workmen or others shall be free from dangerous amounts of noxious impurities and shall contain sufficient oxygen to obviate danger to the health of anyone employed in any such mine. In any mine workings where such conditions cannot be obtained by natural ventilation approved means for mechanical ventilation shall be provided and kept in operation until such workings have been abandoned or until satisfactory natural ventilation shall have been brought about therein.

**Fans.** (26) All fans except auxiliary fans shall be above ground and shall be reversible and all fans and structures containing the same shall be fireproof.

**Internal combustion engine.** (27) No internal combustion engine shall be installed or operated underground in any mine.

*Sanitation.*

**Sanitary conveniences.** (28) The manager of a mine shall provide or cause to be provided on the surface and in the underground workings sufficient and suitable sanitary conveniences in accordance with the following rules:

(a) Where the number of persons employed on any shift does not exceed one hundred there shall be one sanitary convenience for every twenty-five persons or portion thereof;

(b) Where the number of persons so employed exceeds one hundred there shall be one additional sanitary convenience for every fifty persons or portion thereof over the first hundred.

(29) These sanitary conveniences must be kept in a cleanly manner; must be adequately supplied with chloride of lime, sawdust, fine ash or other suitable absorbent; must be removed and cleaned regularly; must be conveniently placed with reference to the number of men employed on the different levels; and must be placed in a well-ventilated part of the mine.

(30) Any person depositing faeces in any place underground other than in the sanitary conveniences provided, shall be guilty of an offence against this Act.



(31) If more than ten persons to each shift are ordinarily employed in the mine below ground, sufficient accommodation, including supplies of clean cold and warm water for washing, shall be provided above ground near the principal entrance of the mine, and not in the engine room, boiler room, or nearer than fifty feet to the shaft house, for enabling the persons employed in the mine to conveniently dry and change their clothes.

*Care and Use of Explosives.*

(32) No explosive shall be used at any mine, unless there is plainly printed or marked on every original package containing such explosive the name and place of business of the manufacturer, and the strength, and the date of its manufacture. Every case of supposed defective fuse, detonator or powder shall be reported to the Inspector with the name of the manufacturer and the serial number of the package from which such fuse, detonator or powder was taken.

Dressing room.

Marking strength on original packages of explosives.

Defective explosives to be reported.

(33) Except as otherwise provided herein, all explosives shall be stored in special suitable buildings, such as magazines, thaw houses, detonator storage buildings or cap and fuse houses.

Storage of explosives.

- (a) No such building shall be erected or maintained at any mine except with the written permission of an inspector, nor until the site of the building and the style of structure has been approved by him.
- (b) Where possible, every such building shall be located in accordance with the British Table of Distances in respect of its distance from the mine or works or any other buildings or any public highway or public railway. Where conditions are such that it is impossible to locate such buildings in accordance with the British Table of Distances, the mine manager and the inspector shall jointly choose the most suitable location.
- (c) Every such building shall be constructed of materials to insure as far as possible against accident from any cause.
- (d) The rules in reference to the care and use of explosives shall be kept posted up inside every such building.
- (e) Every such building shall be kept securely locked at all such times as the attendant is not present and it shall be clearly indicated by some easily visible sign posted outside the building that explosives are stored therein.

Magazines,  
thaw houses,  
etc.

(34) Magazines, thaw houses, cap and fuse houses and explosives storage boxes shall at all times be kept clean and dry and free from grit.

Floors and  
shelves.

(35) Floors and shelves shall be washed at such regular intervals and with such materials as shall be approved by an inspector and all traces of explosives shall be removed from floors and shelves.

What  
explosives to  
be used first.

(36) When supplies of explosives are removed from a magazine those that have been longest in the magazine shall be used first provided they are not defective. In all cases where explosives have become defective they shall be suitably and safely disposed of.

Opening  
cases.

(37) Only implements of wood, brass or copper shall be used in opening cases containing explosives.

Amount of  
explosives to  
be stored  
under-  
ground.

(38) Explosives shall not be stored underground in any mine to an amount in excess of the necessary supply for twenty-four hours and in no case exceeding three hundred pounds in any one place, except with the written permission of an inspector and subject to such conditions as he may prescribe.

Storage of  
explosives.

(39) No explosive shall be stored within two hundred feet of any shaft station, or transformer station underground in any mine.

Storage of  
detonators.

(40) Detonators shall not be stored in the same receptacle or storage building as other explosives.

Naked light.

(41) No naked light shall be taken into any building or place where explosives are stored or within ten feet of any place underground where explosives are stored and no person

Smoking.

shall smoke in any building or place where explosives are stored or while handling explosives.

Inspection  
of stores of  
explosives in  
a mine.

(42) (a) The manager, captain or some other properly authorized person or persons shall make a thorough daily inspection of the condition of the explosives in or about the mine and shall make an immediate investigation when an act of careless placing or handling of explosives is discovered by or reported to him.

(b) Any employee who commits a careless act with an explosive or where explosives are stored, or who, having discovered such an act to have been committed, omits or neglects to report immediately such act to an officer in charge

of the mine, shall be guilty of an offence against this Act and the officer in charge of the mine shall immediately report such offence to the Inspector or to the Crown attorney of the county or district in which the mine is situate.

(43) When any mine is closed down all explosives shall be disposed of and no explosives may be stored in any such closed-down mine without permission of an inspector.

Explosives  
not to be  
stored in  
closed mine.

(44) No person shall take away from a mine any explosive without the written permission of the manager or of such person as may be authorized by the manager to give such permission.

Explosives  
must not  
be moved  
from mine  
except by  
written  
permission  
of manager.

(45) No building for thawing explosives shall be maintained in connection with any mine except with the written permission of an inspector. The building shall be above ground, unless exemption obtained under the provisions of subsections 1 and 2 of section 159 direct otherwise, and the site of the building and the style of structure and equipment shall be subject to the approval of the inspector. The building shall be under the direction of the manager or some person authorized by him. The quantity of explosives brought into any thawing house at any one time shall not exceed the requirements of the mine for a period of twenty-four hours, plus the amount that it may be necessary to have thawing to maintain that supply.

Thawing  
houses.

(46) A reliable recording thermometer shall be kept in the room in which explosives are thawed and the record thereof kept, but where the amount of explosives in such thawing room does not exceed two hundred pounds at any one time, the inspector may give permission, in writing, to use a maximum and minimum registering thermometer on condition that a daily record of high and low temperature be made and kept on file.

Thermo-  
meter  
necessary

(47) In no case shall powder be thawed near an open fire or steam boiler or by direct contact with steam or hot water.

Thawing  
near open  
fire or steam  
boilers  
forbidden.

(48) All electric wiring in powder magazines and thaws shall be installed in rigid conduit with screwed, waterproof joints, and such conduit shall be permanently grounded.

Wiring  
in powder  
magazines  
and thaws.

(49) The switches and fuses for lighting, heating or telephone circuits for powder magazines or thaws shall be installed in a locked fireproof cabinet on the outside of the building. The fuses for power used shall be such that they will interrupt

Switches to  
be outside of  
powder  
magazines  
and thaws.

the current at twenty-five per centum over the normal load. Fuses for lighting circuits shall not exceed ten-ampere capacity.

Electric heating of powder thaws

(50) Where water is the medium used for the distribution of electrically generated heat for powder thaws the radiation pipes shall be permanently grounded. No electrical device for generating heat shall be allowed in the same compartment with explosives. Wire or grid-type heaters shall not be installed in conjunction with any building in which explosives are stored or handled.

Handling explosives.

(51) Every possible precaution shall be taken in the handling and transportation of explosives.

Explosives to be raised or lowered gently.

(52) The hoistman shall gently lower or raise the cage or other conveyance containing explosives. No person shall place in or take out of the shaft conveyance any explosives except under the immediate supervision of the person authorized by the manager, mine captain or shift boss.

Explosives to be left only in authorized places at stations.

(53) No person authorized to distribute explosives shall leave the same except at a place duly provided therefor under the terms of this Act or with some other person authorized to take charge of the same.

Transportation of detonators.

(54) Detonators shall not be transported in any shaft conveyance with any other explosive unless placed in a separate suitable container.

Blasting on contiguous claims.

(55) Where parties working contiguous or adjacent claims or mines disagree as to the time of setting off blasts, either party may appeal to the inspector, who shall decide upon the time at which blasting operations thereon may be performed, and the decision of the inspector shall be final and conclusive and shall be observed by them in future blasting operations.

Explosives not to be removed from original container.

(56) No explosive shall be removed from its original paper container or cartridge.

Blasting of roast heaps.

(57) No explosive shall be used to blast or break up ore, salamander or other material where by reason of its heated condition there is any danger or risk of premature explosion of the charge.

Size of drill holes

(58) All drill holes, whether sunk by hand or machine drills shall be of sufficient size to admit of the free insertion to the bottom of the hole of a stick or cartridge of powder, dynamite or other explosive, without ramming, pounding or pressure.



(59) In charging holes for blasting, no iron or steel tool or rod shall be used, and no iron or steel shall be used in any hole containing explosives, and no drilling shall be done in any hole that has been charged or blasted. No iron or steel to be used in charging holes.

(60) Every workman shall, before blasting, give or cause to be given due warning in every direction by shouting "Fire," and shall satisfy himself that all persons have left the working place except those required to assist him in blasting. Due warning required.

(61) Every workman shall, before blasting, cause all entrances to the place or places where such blasting is to be done or where the safety of persons may be endangered by such blasting, to be effectively guarded, so as to prevent inadvertent access to such place or places while such charges are being blasted. Guarding entrances to places where blasting is to be done.

(62) Except where fired electrically no fuse shorter than three feet shall be used in any blasting operation. In the case of a supposedly missed hole no person shall return to the place of blasting within thirty minutes of the time of lighting the fuse. In a working place where more than two shots have been fired, no person shall return to the scene of a blast within the number of minutes which are equal to twice the number of feet in the longest fuse used in the blasting operation at hand. Fuse.

(63) In no case shall a workman light the fuse without having a second light placed conveniently close. Second light necessary.

(64) When a workman fires a round of holes he shall, where possible, count the number of shots exploding. If there is any report missing, he shall report the same to the mine captain or shift boss. If a missed hole has not been fired at the end of a shift, that fact, together with the location of the hole, shall be reported by the mine captain or shift boss to the mine captain or shift boss in charge of the next relay of workmen going into that working place before work is commenced by them. Reporting of missed holes.

(65) A charge which has missed fire shall not be withdrawn, but shall be blasted and no drilling shall be done within a distance at any point of five feet of a missed or cut-off hole containing explosive until it has been blasted. Charge missing fire to be blasted.

(66) No development heading shall be abandoned or work therein discontinued until the material broken at the firing of the last round shall have been cleared from the face and the whole face of the heading examined for explosives in missed or cut-off holes. Examination for missed or cut-off hole.

When blasting to be done by electric current.

(67) After the first ten feet advance has been made in any shaft or winze, and after fifty feet advance has been made in any raise inclined at over fifty degrees from the horizontal, all blasting shall be done by means of an electric current.

Electric current to be disconnected after blasting.

(68) A workman shall not, where blasting takes place by electricity, enter or allow other persons to enter the place or places where the charges have been fired until he has disconnected the cables from the blasting battery or other source of current.

Restrictions on use of electricity for shot firing.

(69) (a) Electricity from lighting or power cables shall not be used for firing shots except when a special firing device which automatically opens the circuit by gravity is provided. The live side of such device shall be installed in a fixed locked box and shall be accessible only to the authorized shot firer.

(b) One such device shall be maintained for each individual working place in which firing is done by means of electricity from lighting or power cables.

Connection and disconnection.

(70) The firing cables or wires shall not be connected to the firing device until immediately before they are required for the firing of shots, and shall be disconnected immediately after the shots are fired.

Firing cables.

(71) The firing cables or wires used for firing shots at one working place shall not be used for firing shots in another working place until all proper precautions have been taken to insure that such firing cables or wires have not any electrical connection with the leads from the first working place.

Precautions in using shot-firing cables.

(72) When shot-firing cables or wires are used in the vicinity of power or lighting cables, sufficient precautions shall be taken to prevent the shot-firing cables or wires coming in contact with the lighting or power cables.

### *Protection in Working Places, Shafts, Winzes, Raises, etc.*

Fencing of shafts and other openings.

(73) The top of every shaft shall be securely fenced or protected by a gate or guard rail, and every pit or opening dangerous by reason of its depth shall be securely fenced or otherwise protected.

Guard rail at shaft and winze openings.

(74) (a) At all shaft and winze openings on the surface and on every level, unless securely boarded off, a gate not less than four feet in height or a substantial guard rail not less than three feet or more than four feet above the floor

shall be provided and kept in place except when the cage, skip or bucket is being loaded or unloaded at such level, provided that when a guard rail is used there shall be maintained in conjunction therewith a toe board constructed of four-inch by four-inch material.

(b) Where mechanical haulage tracks lead up to any shaft or winze compartment on the surface or underground there shall be provided on such compartment a substantial gate or barricade reinforced in such manner that it shall be sufficiently strong to withstand any impact imparted thereto by collision therewith of any motor or train and such gate or barricade shall be kept in place except when the cage, skip or bucket is being loaded or unloaded at such level.

(75) Every shaft shall be properly timbered and such timbering shall be maintained within a distance of forty feet of the bottom of the shaft during sinking operations. Shaft to be timbered.

(76) Where a drift extends from a shaft in any direction on a level, a safe passage way and standing room for workmen shall be made on one or both sides of the shaft to afford protection against falling material. Protection of workmen in drifts.

(77) During shaft-sinking operations no work in any other place in the shaft shall be done, nor shall any material or tools be hoisted or lowered from or to any other place in the shaft while men are at work in the bottom of the shaft unless the men so at work be adequately protected from the danger of falling material. Protection of men while sinking shaft.

(78) Where the enclosing rocks are not safe every adit, tunnel, stope, or other working in which work is being carried on, or persons passing, shall be securely cased, lined or timbered, or otherwise made secure. Securing walls of tunnels, etc.

(79) (a) All raises inclined at over fifty-five degrees from the horizontal which are to be carried up more than sixty feet shall be divided into at least two compartments, one of which shall be maintained as a ladder-way and equipped with suitable ladders. The timbering shall be maintained within a distance of twenty-five feet of the face of the raise. Raises over fifty-five degrees.

(b) All raises inclined at over fifty degrees from the horizontal but under fifty-five degrees which are to be carried up more than one hundred feet shall be divided into at least two compartments, one of which shall be maintained as a ladderway and equipped with suitable ladders in that portion at least which lies above seventy-five feet from the bottom Raises between fifty and fifty-five degrees.

of the raise. The timbering shall be maintained within a distance of twenty-five feet of the face of the raise.

Precautions  
as to broken  
material.

(80) Wherever, at any mine, chutes are pulled where persons may, either at the time of pulling or some future time, be required to go out on the broken material above, sufficient precaution shall be taken to ascertain that the broken material is settling freely and where there is any indication of a hang-up the location shall be adequately protected by suitable signs or barricades and any persons working in the vicinity notified of the danger.

Top of  
mill hole in  
stope to be  
covered.

(81) The top of every mill hole in a stope shall, as far as practicable, be kept covered.

Procedure  
before  
drilling.

(82) Before drilling is commenced in any working place the exposed face shall be blown over with compressed air or water under pressure and carefully examined for misfires and sockets.

Unused  
workings to  
be tested  
for gas.

(83) Underground workings, especially shafts, sumps and winzes, which have been in disuse for some time shall be examined before being again used, in order to ascertain whether foul air or other dangerous gases have accumulated there, and only such workmen as may be necessary to make such examination shall be allowed to proceed to such places until such places are in a fit state to work or travel in.

Examination  
of mine  
workings.

(84) The owner, manager, or some authorized person or persons shall examine daily all parts of the mine where drilling and blasting is being carried on; shall examine at least once a week the other portions of a mine in which operations are being carried on, such as shafts, winzes, levels, stopes, drifts, crosscuts and raises, in order to ascertain that they are in a safe working condition; shall inspect and scale or cause to be inspected and scaled the roofs of all stopes or other working places as often as the nature of the ground and of the work performed necessitates.

Scaling bars  
and gads.

(85) The owner or manager shall provide and maintain an adequate supply of properly dressed scaling bars and gads and other equipment necessary for scaling.

Life lines to  
be used.

(86) The owner or manager shall, when necessary, provide life lines for the workmen and it shall be the duty of the workmen to continually wear such life lines while working in dangerous places.

Keeping  
water supply  
to lay dust.

(87) Every dusty place where work is being carried on in a mine shall be adequately supplied at all times with clean



water under pressure or other approved appliances for laying the dust caused by drilling or blasting operations.

(88) The times for blasting shall be so fixed that the workmen shall be exposed as little as practicable to dust and smoke. Time for blasting.

### *Ladderways.*

(89) A suitable footway or ladderway shall be provided in every shaft. Ladders in shaft.

(90) The ladder or passageway in a shaft or winze shall be separated by a substantial, closely boarded partition from the compartment or division of the shaft or winze in which the material is hoisted. Foot ladder or passage in shaft to be separated from hoist.

(91) In a shaft inclined at over seventy degrees from the horizontal a substantial platform shall be built at intervals not exceeding twenty feet in the ladderway, and the same shall be closely covered except for an opening large enough to permit the passage of a man's body, and the ladders shall be so placed as to cover this opening in the platform. Ladders and platforms in steeply inclined shafts.

(92) In a shaft inclined at less than seventy degrees but more than fifty degrees from the horizontal the ladders may be continuous, but platforms shall be built at intervals not exceeding twenty feet, and so covered that only an opening large enough for the passage of a man's body is provided. Stairways may be used in a shaft inclined at less than fifty degrees from the horizontal. Ladders and platforms and stairways in shafts of low angle.

(93) Wire rope or strands of wire rope shall not be used or be allowed to be used for climbing purposes in any mine if they are frayed or have projecting broken wires. Wire rope ladders.

(94) Every ladder shall project at least three feet above its platform, except where strong hand rails are provided. Hand rails for ladders.

### *Ladders*

(95) (a) Every ladder used shall be of strong construction, shall be securely placed in any shaft, winze, raise, or stope, and shall be maintained in good repair. Ladders.

(b) The distance between centres of rungs of ladders shall not be greater than twelve inches or less than ten inches, and the spacing of rungs shall not vary more than one-half inch in any particular ladderway.

(c) In order to give a proper foothold the rungs shall in no case be closer than four inches from the wall of a shaft, winze, or raise, or any timber underneath the ladder.

### *Shaft Equipment.*

Raising and lowering material.

(96) Where steel, timber or other material is being raised or lowered in any shaft or winze it shall be securely fastened to the shaft conveyance or hoisting rope.

When to be lined with lumber.

(97) When a crosshead is not used the shaft compartment in which the bucket works shall be closely lined with sized lumber.

Safety appliances for cross-heads.

(98) All crossheads shall be provided with a safety appliance of approved design so constructed that the crosshead cannot stick in the shaft without also stopping the bucket. Such safety appliances shall be subject to the approval of the inspector.

Bucket or skip not to be filled above level of brim.

(99) In a shaft or winze, in the course of sinking, the bucket or skip shall not be filled with loose rock above the level of the brim.

Bucket or skip not to be stopped fifteen feet from bottom.

(100) In a shaft or winze, in the course of sinking, the bucket or skip shall not be lowered directly to the bottom of the shaft if there are men working there, but shall be held at least fifteen feet above the bottom, and shall remain there until the signal to lower same has been given by the men on the bottom.

Bucket to be steadied.

(101) No bucket shall be allowed to leave the top or bottom of any shaft or winze until the workman in charge thereof has steadied it or caused it to be steadied.

### *Raising or Lowering Persons.*

Cage or skip for raising and lowering workmen.

(102) Whenever a mine shaft exceeds four hundred feet in vertical depth a suitable cage or skip equipped as required by Rule 104, shall be provided for lowering or raising men in the shaft.

Protection from contact with timbering, etc.

(103) No cage shall be used for the raising or lowering of persons unless it is so constructed as to prevent any portion of the body of any person riding therein from accidentally coming into contact with the timbering or sides of the shaft or winze. Doors shall be so fitted that they cannot be accidentally opened and shall be closed when lowering or hoisting men.

(104) All cages or skips for lowering or raising men shall be constructed as follows: Cages or skips, how to be constructed.

- (a) The hood shall be made of steel plate not less than three-sixteenths of an inch in thickness; Hood.
- (b) The cage shall be provided with sheet iron or steel side casing not less than one-eighth of an inch in thickness, and not less than five feet in height, and with doors made of suitable material; Casing.
- (c) The doors shall extend at least five feet above the bottom of the cage, and shall be closed when lowering or hoisting men; Doors
- (d) The safety appliances shall be of sufficient strength to hold the cage or skip with its maximum load at any point in the shaft, as provided in clause *b* of Rule 124; but the Chief Inspector may give permission, in writing, for hoisting, without safety appliances, if he is satisfied that the equipment is such that a maximum of safety is provided; Safety catch.
- (e) The cage shall not have chairs attached thereto which are operated by a lever or a chain through or from the floor of the cage. Operating chairs, by lever.

(105) No person shall travel or be permitted to travel in a bucket, cage or skip operated by an engine which is being simultaneously used for the hoisting of mineral or material except as provided for in clause *c* of Rule 106. Hoisting men and material simultaneously.

(106) No person shall be lowered or hoisted, or allow himself to be lowered or hoisted, in a shaft, winze or other underground opening of a mine,— When persons not to be hoisted.

- (a) in a bucket or skip, except that men employed in shaft sinking will be allowed to ascend and descend to and from the nearest level or other place of safety by means of the bucket or skip used for hoisting material, but there shall always be a suitable ladder in the shaft to provide an auxiliary means of escape; In buckets or skips.
- (b) in a cage or skip, except as provided in clause *a* of this Rule and clause *d* of Rule 104, which is not provided with a hood, dogs or other safety appliances approved by the inspector;
- (c) in a cage, skip or bucket that is loaded with powder, steel or timber except for the purpose of handling the same;

(d) in a cage, skip or bucket in which any material is carried, unless the same be adequately secured.

Hoisting  
after  
stoppage  
for repairs.

(107) After any stoppage of hoisting for repairs and, after stoppage for any other purpose, which shall exceed two hours' duration, no person shall be raised or lowered until the cage or skip has made one complete trip up and down the working portion of the shaft.

### *Hoisting.*

Hoisting  
with horse  
and pulley-  
block.

(108) Hoisting from mine workings with horse and pulley-block is forbidden.

Brakes  
required.

(109) Where hoisting is done by means of an engine an adequate brake or brakes shall be attached to the drum of the hoist and kept in proper working order.

Type  
of brake.

(110) Such brakes shall be so arranged that, whether the engine is at work or at rest, they can be easily and safely manipulated by the hoistman when standing at the levers controlling the engine. No hoist used for the raising or lowering of persons, or used in shaft sinking, shall be equipped with a brake or brakes operated by means of the hoistman's foot unless such brake is an auxiliary electrical device. The adjustments of the brake or brakes shall be maintained in such condition that when the normal power of the brake or brakes is applied the brake lever will still have a clearance between itself and the ends of the quadrant in which it works.

Locking  
gear.

(111) The operating gear of the clutch of the drum shall be provided with locking gear to prevent inadvertent withdrawal of the clutch.

Locking  
devices.

(112) Such bolts and other fittings of the drums, brakes and clutches as might be a source of danger in the event of their becoming loosened shall be rendered secure by means of suitable locking devices.

(113) All electric hoists fitted with mechanically operated brakes shall be so installed that,—

Automatic  
brakes.

(a) the mechanically operated brakes will be applied automatically the moment the power supply fails;

Circuit  
breaker.

(b) in case of a heavy overload, such as would be caused by the shaft conveyance leaving the rails or becoming jammed in the shaft, a circuit breaker will cut off the power and thus allow the mechanically operated brakes to come into play;



- (c) a suitable overwind device, which can be set to engage <sup>Overwind device.</sup> shaft conveyance at any point in the head-frame, will cut off the current, in case of an overwind past this point, and thus allow the mechanically operated brakes to come into play. In default of a device of this nature the hoist shall be equipped with some other form of satisfactory and dependable overwind device. Such devices shall be tested out by the hoistman at least once a week;
- (d) the brakes shall, on failure of the power supply, be <sup>Brakes operated by mechanical means.</sup> put into play by mechanical means, preferably gravity, and shall in no case be operated by an auxiliary electric current;
- (e) the brake and clutch operating gear shall be so <sup>Interlock.</sup> interlocked that it shall not be possible to release the brake while the clutch of the corresponding drum is disengaged.

(114) The operator of a hoisting engine shall not, after going on shift, unclutch a drum of his engine until he has assured himself immediately beforehand, by testing the brake of the drum against the normal starting power of the engine, or in case of an electric hoist against the normal starting current, that the brake is in proper condition to hold the load suspended from said drum. <sup>Brakes to be tested.</sup>

(115) When the hoisting engines are fitted with friction <sup>Friction clutches</sup> clutches, the operator, after going on shift, shall, when clutching in, test the holding power of the clutch before releasing the brake of the corresponding drum, the brake of the other drum being kept off. In case of a steam or air hoist, the test shall be made against the normal starting power of the engine, and in case of an electric hoist against the normal starting current.

(116) When the drum of a hoist is unclutched, the brake <sup>Use of brake when drum unclutched.</sup> of such drum shall be used only for the purpose of maintaining such drum in a stationary position and no lowering shall be done from an unclutched drum.

(117) In case of non-reversible steam or air hoists and single-drum electric hoists, not used in balanced hoisting, an adequate auxiliary brake shall be installed before the same shall be used for hoisting or lowering men, but non-reversible steam or air hoists with throttle-controlled exhaust shall not require such auxiliary brake. <sup>Auxiliary brake required.</sup>

Indicator  
required.

(118) Every hoisting engine shall, in addition to any marks on the rope, be provided with a reliable depth indicator, which will clearly and accurately show to the operator at all times,

(a) the position of the bucket, cage or skip;

(b) at what positions in the shaft a change of gradient necessitates reduction in speed;

Exemption.

but this rule shall not apply to hoisting engines used in sinking operations when the hoistman has an unobstructed view of the landing station and the distance from the landing station to the bottom of shaft does not exceed three hundred feet.

Operation  
of indicator.

(119) An indicator shall not be operated by a chain and sprocket arrangement but shall be driven by a suitable train of gears from its corresponding drum of the hoist.

Warning  
signal.

(120) In every shaft exceeding six hundred feet in depth adequate provision shall be made whereby the hoistman is warned of the arrival of the bucket, cage or skip at a point in the shaft, the distance of which from the top landing place is not less than the equivalent of three revolutions of the drum of the hoisting engine.

Slipping  
of rope on  
drums.

(121) On the drum of every machine used for lowering or raising persons there shall be such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope or cable from slipping off.

Connections  
between rope  
and bucket,  
etc

(122) The connection between the hoisting rope and the bucket, counterweight, cage, skip or other means of conveyance shall be of such a nature, that the risk of accidental disconnection is reduced to a minimum.

Examination  
of hoisting  
equipment  
required.

(123) The owner or manager of a mine, where a hoisting engine is in use, shall depute some competent person or persons whose duty it shall be to examine at least once in each week the sheave wheels, the hoisting rope and the attachments thereof to the drums and to the counterweights, buckets, cages or skips, the brakes and depth indicators and the buckets, counterweights, cages and skips and any safety catches attached thereto; the guides and hoisting compartments generally and the signalling arrangements; and the external parts of the hoisting engine.

Examination  
of cables

(124) Such owner or manager shall also depute a competent person or persons who shall examine,—

(a) at least once in each month the structure of the hoisting ropes with a view to ascertaining the deterioration thereof and for the purposes of this examination the rope must be thoroughly cleaned at points to be selected by said person or persons, who shall note any reduction in the circumference of, and the proportion of wear in, the rope;

(b) at least once a month the safety appliances of the cages or other shaft conveyances, so equipped, by testing same under load conditions; such test to consist of releasing the cage suddenly, in some suitable manner, so that the safety catches shall have opportunity to grip the guides; and in case the safety catches do not act satisfactorily, the cage or other shaft conveyance shall not be used further for hoisting men until the safety catches have been repaired and been proved to act satisfactorily.

Safety appliances to be tested monthly.

(125) If, on any examination, as is hereinbefore required there is discovered any weakness or defect by which the safety of persons may be endangered, any such weakness or defect shall be immediately reported to the owner or manager or person in charge, and until such weakness or defect is remedied the hoisting plant shall not be used.

Defects to be remedied at once.

(126) Such owner or manager shall keep or cause to be kept at the mine a book to be termed the "Machinery Record Book," in which shall be recorded a true report of every such examination as is hereinbefore referred to, signed by the person making the examination.

Machinery Record Book to be provided.

(127) No hoisting rope which has previously been in use in any place beyond the control of the owner or manager shall be put on anew except with the permission of the inspector.

History of rope necessary.

(128) In no case shall a rope which has been spliced be used for hoisting purposes.

Hoisting rope not to be spliced.

(129) In case of hoisting engines there shall be not less than three rounds of rope upon the drum when the bucket, cage or skip is at the lowest point in the shaft or winze from which hoisting is effected. The end of the rope shall be properly fastened around the shaft or to the spider of the drum.

Length of rope required on drum when skip is at the bottom.

(130) In case a hoisting rope is used both for the raising and lowering of men and materials, the weight attached to the rope in the former case, when the bucket, cage or skip is

Hoisting both men and materials.

bearing its authorized load shall not exceed eighty-five per centum of the maximum allowable weight when the rope is in use for other purposes.

Rope  
certificate  
necessary.

(131) (a) No hoisting rope shall be used <sup>\*</sup>which is not accompanied by a certificate from the manufacturer giving the following information: name and address of manufacturer, coil or reel number, date of manufacture, diameter and circumference of the rope in inches, weight per foot in pounds, number of strands, class of core, number of wires in strand, diameter of wires in decimals of an inch, breaking stress of steel of which the wire is made, in tons per square inch, estimated or actual breaking load of rope, length of rope.

(b) The foregoing data along with the additional following information shall be entered in a book known as the "Rope Record Book," and duplicate copies forwarded to the Chief Inspector when a hoisting rope is newly put on: date of purchase, date on which put on, identification number (where used) of the rope, name of shaft or winze and compartment in which the rope is used, weight of shaft conveyance, weight of material carried, weight of maximum length of rope in service, static factor of safety.

(c) There shall be kept in the rope record book a history of the hoisting rope, outlining the date on which the rope was put on, certification of trial trips and examinations required by Rule 132, date of shortening, dates and summaries of breaking tests, date taken off.

(d) The rope record book shall always be open for inspection by the inspector.

(e) When a hoisting rope is taken out of service, notice to that effect shall be forwarded to the Chief Inspector, giving the date and reasons for discarding along with such other information as he may require.

Examination  
of attach-  
ments.

(132) A hoisting rope when newly put on, and after any subsequent cutting thereof, shall have the connecting attachments between the bucket, cage, skip or counterweight and the rope carefully examined by the owner, manager, or department head, and shall not be used for ordinary transport of persons in any shaft or winze until two complete trips up and down the working portions of such shaft or winze have been made, the bucket, cage, skip or counterweight bearing its authorized load. The result of such examination shall be recorded in the rope record book.



(133) The factor of safety of all hoisting ropes when newly installed in shafts less than two thousand feet in depth shall in no case be less than six, and in shafts over two thousand feet in depth and less than three thousand feet in depth shall not be less than five. The factor of safety shall be calculated by dividing the breaking strength of the rope as given in the manufacturer's certificate by the sum of the maximum load to be hoisted plus the total weight of the rope in the shaft when fully let out. Factor of safety of hoisting rope.

(a) No hoisting rope shall be used for the raising or lowering of men when its factor of safety based on its existing strength and dead load shall have fallen below 4.5.

(b) No hoisting rope shall be used for the raising or lowering of men when the number of broken wires in one lay of said rope exceeds six, or when marked corrosion appears.

(134) Every hoisting rope shall be treated with a suitable rope compound as often as necessary and at least once in every month. Rope dressing

(135) At least once in every six months the hoisting rope shall have a portion not less than six feet in length cut off the lower end. The length so cut off shall have the ends adequately fastened with binding wire to prevent the disturbance of the strands and shall be sent to a reliable testing laboratory for a breaking test. The certificate of such test shall be kept on file and a summary thereof recorded in the rope record book. Testing portion of rope.

(136) At the periodical cutting of the rope the connection between the rope and the bucket, cage, or skip shall be thoroughly cleaned and carefully examined. Cleaning and examination of rope connection.

(137) Head sheaves shall be of such diameter as shall be suited to the rope in use. Head sheaves.

(138) Wherever a counterweight is used in a shaft it shall operate in a separate and safely enclosed compartment. The cable from the counterweight shall be attached to the drum of the hoist and not to the cage or skip. Counterweights.

### *Signals.*

(139) Every working shaft which exceeds fifty feet in depth shall be provided with some suitable means of communicating Signalling

by distinct and definite signals from the bottom of the shaft and from every level for the time being in work between the surface and the bottom of the shaft, to the hoist room.

Electrical  
signal  
systems.

(140) Where an electrical signal system is installed the system shall be so arranged that the hoistman may return the signal to the person giving the signal when men are being hoisted or lowered.

Code  
of signals.

(141) All methods of signalling in a mine shall be printed and posted up in the engine house or hoist house and also at the top of the shaft and at the entrance of each level.

The following code of mine signals shall be used at every mine:

*Code of Mine Signals.*

- 1 bell.....Stop immediately—if in motion.
- 1 bell.....Hoist.
- 2 bells.....Lower.
- 3 bells.....Men about to ascend or descend. The 3-bell signal must be given before men enter the cage. When the hoistman receives this signal, he must not move cage for ten seconds after he has received the balance of the signal. In case he is unable to act within one minute of the time he has received the signal, he shall not move hoist until he receives fresh signal. When the hoistman receives a 3-bell signal he shall remain at his levers until the full signal has been received and the act of hoisting or lowering completed.
- 4 bells.....Blasting signal. Hoistman must answer by raising bucket, skip or cage a few feet and letting it back slowly, then one bell, hoist men away from blast.
- 9 bells.....Danger signal in case of fire or other danger. Then ring number of station where danger exists.

Special  
signals.

(142) Special signals, in addition to the above, may be used at any mine provided they are easily distinguishable by their sound or otherwise from the foregoing code and do not interfere with it in any way and have been approved by the Chief Inspector.

(143) No person, unless duly authorized, shall give any signal for moving or stopping the bucket, cage or skip. No signal shall be given unless the bucket, cage or skip is at the level from which the signal is to be given. No unauthorized person shall give any signal, other than the danger signal, or in any way whatsoever interfere with the signalling arrangements.

Signal to be given only by authorized person.

(144) A notice showing clearly the number of persons allowed to ride on, and the weight of materials allowed to be loaded on the cage or skip shall be posted at the collar of the shaft. The person authorized to give signals will be held responsible for observance of such notice. No person shall offer obstruction to the enforcement of such notice.

Notices to be posted showing number of men permitted to ride.

### *Haulage.*

(145) No person shall ride upon or against any loaded car in any level, drift or tunnel in or about any mine. In mechanical haulage this shall not apply to train crews.

Riding on loaded cars, etc.

(146) On every level on which mechanical haulage is employed, a clearance of at least eighteen inches shall be maintained between the sides of the level and the cars, or there shall be a clearance of twenty-four inches on one side, or safety stations shall be cut every one hundred feet.

Clearance between cars and sides of level.

(147) Control levers of storage and trolley locomotives shall be so arranged that the lever cannot accidentally be removed when power is on.

Control levers.

### *Protection from Machinery.*

(148) Every fly-wheel, geared-wheel, bull-wheel, pulley or belt, and every opening through which any wheel or belt operates, shall be enclosed with a substantial railing or casing, unless situated in such a manner or location as to prevent any person coming into accidental contact therewith.

Fly-wheel, geared-wheel, etc.

(149) Every key, bolt, set-screw, and every part of any wheel or other revolving machinery which projects unevenly from the surface shall be covered, unless situated in such a manner or location as to prevent any person coming into accidental contact therewith.

Uneven projections to be covered.

(150) Every power-driven grinding wheel shall be provided with a hooded guard of sufficient strength to withstand the

Grinding wheels to be guarded.

shock of a bursting wheel. This guard shall be adjusted close to the wheel and extend forward, over the top of the wheel, to a point at least thirty degrees beyond a vertical line drawn through the centre of the wheel.

Wear-  
ing loose  
clothing.

(151) Persons engaged in dangerous proximity to moving machinery shall not wear or be allowed to wear loose outer clothing.

Runway to  
have hand  
railing.

(152) Every runway or staging more than five feet from the floor and used for oiling or other purposes shall be provided with a hand railing.

Protection of  
entrances.

(153) Every entrance to any elevator, hatchway, or well-hole shall be provided with a suitable trap-door, guard rail, or automatically closing gate.

Counter-  
weights.

(154) Every counterweight shall be so situated or guarded that injury to any person would not be probable should it become detached from its fastenings.

Frogs  
in tracks.

(155) Every frog in a track, either above or below ground, on which cars are moved by mechanical power shall have a guard block of wood or iron.

Gongs, etc.,  
on hauling  
engines.

(156) Every locomotive, engine, trolley or motor car used for hauling material, either above or below ground, shall be equipped with a gong, bell or whistle, which shall be sounded when starting and at such other times as warning of danger may be required.

### *Boilers.*

Steam  
boilers.

(157) Every steam boiler used for generating steam in or about a mine shall, whether separate or one of a range,—

Safety  
valves.

(a) have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in each boiler;

Boiler  
inspection.

(b) be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months; and a certified copy of the report of the inspection shall be forwarded to the inspector within seven days.

Main-  
tenance.

(158) Every such boiler, safety-valve, steam-gauge and water-gauge shall be maintained in proper working condition.



*Sand and Gravel Pits.*

(159) In open-pit workings of sand and gravel the method of removing material by undermining shall not be allowed. Undermining forbidden. No vertical working place shall have a height of more than ten feet; where the thickness of material to be excavated exceeds ten feet in depth, the work shall be done in terraces, or at an angle of safety. This rule shall not apply to pits where the material is excavated solely by mechanical means.

(160) Guard rails shall be placed at the approach to railway tracks, where the view of such tracks is obstructed in one or both directions. Guard rails at track approaches.

*Metallurgical Works.*

(161) At all furnaces of the hand-filled type the room at the furnace top where workmen are engaged shall be adequately ventilated, and there shall be provided and maintained in good order a stairway equipped with hand rail, from the top of the furnace to the ground level below, affording a safe means of exit in case of danger from any cause. Ventilation.

(162) Whenever it is necessary for a workman to go up on the bustle pipe for any purpose, he shall first notify the furnace keeper or some other responsible person, whose duty it shall be to remain on watch during the period the workman is engaged on the bustle pipe. Protecting workmen.

(163) All bustle pipes shall be provided with safe working platforms, equipped with hand rails, at least three feet six inches in height, and wherever practicable the platform shall not rest directly on the bustle pipe, but be supported on angle bars, so that the floor plate will not become sufficiently hot to cause burns to a workman falling on it. Access to the platform shall be by stairway provided with hand rails. Protection from bustle pipes.

(164) Whenever it becomes necessary for a workman to go on top of the furnace for oiling, cleaning, or other duty, he shall notify the foreman or other responsible person, who shall see that not less than two men go on top for any purpose. It shall be the duty of one workman to act as watcher and to give the alarm to the stock house, cast house, or bell operator, and render every possible assistance in case of danger from gassing or other causes. Guarding workmen on top of furnace.

(165) Life lines and belts in good order shall be provided and kept in some secure and readily accessible place for immediate use in case it becomes necessary to rescue a work-

man from the top rigging, and also for use by any workman whose duties require him to work in an atmosphere which is liable to become dangerous by reason of the presence of noxious gases.

Shields for  
protection  
against  
burning.

(166) Workmen employed at metallurgical works shall be supplied with suitable shields and appliances to protect them as far as possible from being burned with molten material.

Line of  
communi-  
cation.

(167) A proper and adequate line of communication by telephone, gong or other mechanical means shall be maintained between the furnace top and all other dangerous places, and the cast house, skip operator's room, or other place where workmen are continuously on duty.

Stairways  
protected.

(168) All stairways shall be inclined at an angle not greater than fifty degrees from the horizontal, and provided with landings or turn-outs, at intervals of twenty-five feet, so that it will not be possible for a workman to fall from the top to the foundation landing below.

Super-  
vision of  
hazardous  
work.

(169) Every foreman shall personally supervise or appoint a competent assistant to supervise any work around the furnace involving unusual accident hazard, such as work in gas mains or cleaners, tearing out linings, work in the cast house, about the stoves when blowing in or blowing out, and any work about the bells or stock line. He shall also, when the furnace is known to be hanging and liable to slip, see that no workman is allowed on top for any purpose.

Inspection  
of stock  
piles.

(170) Stock piles of ore, limestone, coke or other material shall be inspected daily by some authorized person whose duty it shall be to see that they are in a safe working condition.

Protection  
around bell.

(171) Whenever ore becomes frozen in the hopper and workmen are required to bar the same into the furnace, a proper guard rail shall be provided to prevent workmen slipping on to the bell, and all workmen so engaged shall be equipped with belt and life line.

Rescue  
apparatus.

(172) There shall be maintained at all blast furnaces in a readily accessible place, breathing apparatus and portable resuscitating apparatus of approved type, with an adequate supply of oxygen and absorbent material. There shall always be on duty in each working shift a workman or workmen appointed by the superintendent and trained in the use of breathing and resuscitating apparatus.

*Cranes and Elevators.*

(173) No person under the age of eighteen years shall be allowed to operate an elevator. Age of elevator operator.

(174) No person under the age of eighteen years shall be allowed to operate a crane. Age of crane operator.

(175) Every crane shall be equipped with suitable devices to prevent overwinding. Overwinding devices.

(176) All hoisting ropes used on cranes shall be subject to the same rules as are laid down for hoisting ropes at mines. Rules for crane ropes.

(177) The owner or manager shall depute some qualified person or persons to examine daily such parts of the cranes or apparatus pertaining thereto upon the proper working of which the safety of persons depends. A record of such examinations shall be kept. Daily examination of cranes.

(178) Every entrance to a hoistway shall be provided with a substantial door or doors or gate or gates at least six feet in height. All folding gates over three feet wide shall have top, bottom and centre braces. Folding gates.

(179) Every hoistway landing and place where machinery is erected shall be well lighted. Lighting.

(180) When a hoistway is not enclosed in walls, access to the hoistway by means of an adjacent stairway, platform or floor, which is not an authorized landing, shall be prevented by means of a partition to a height of at least six feet. Guarding hoistway.

(181) All guide rails for cars and counterweights shall be of substantial construction, and shall be securely fastened to the sides of the hoistway, and the bottom ends shall rest on a secure foundation, and be firmly fixed in that position. Guide rails.

(182) On every elevator hereafter installed a clear space of not less than three feet shall be provided between the bottom of the hoistway and the lowest point of the car when the car is at its lowest landing, and between the top of the car and the sheave when the car is at its top landing, and also between the top of the counterweight and the sheave when the car is at its lowest landing. Clearance for car.

(183) Every elevator shall be provided with automatic devices at the top and bottom of the travel of a car in the hoistway, so arranged that the car will be stopped before it Automatic safety devices.

has travelled two feet above the top landing, or two feet below the bottom landing, and all drum hoists shall, in addition, be fitted with automatic stop motions to prevent overwinding.

Protecting  
counter-  
weights.

(184) All counterweights shall have their sections strongly bolted together, and shall be so situated that they cannot fall upon any part of the elevator or machinery, and shall be suspended in their guides in such a manner that they will run freely without danger of being detached. Where counterweights run in the same hoistway as the car they shall be protected with a substantial screen of iron or steel from top of guides to a point fifteen feet below.

Protection  
on elevator.

(185) Every elevator on which any person travels shall be provided with side casing, and shall have a door or doors extending at least five feet above the bottom of the elevator, and the top shall be covered with suitable protective roofing.

Safety  
catches.

(186) Every elevator on which any person travels shall be provided with efficient safety catches capable of holding the elevator and twice the maximum load in any position in the hoistway. When the safety catches are operated through shafts, all the levers and safety catches shall be keyed to the shafts.

#### *Rules Governing Use of Electricity.*

(187) In these rules,—

"Cut-out."

(a) "Cut-out" shall mean any device, such as a fuse or circuit-breaker, by which the electrical continuity of a conductor may be automatically broken by changes in current or voltage;

"Dis-  
connector."

(b) "Disconnecter" shall mean a switch which is intended to open a circuit only after the load has been thrown off by some other means;

"Electrical  
Supply  
Station."

(c) "Electrical Supply Station" shall mean any building, room or separate space within which is located electrical supply equipment and which is accessible, as a rule, only to properly qualified persons, and shall include generating stations and substations and generator, storage battery and transformer rooms;

"Grounded."

(d) "Grounded" shall mean connected to earth or to some extended conducting body which serves instead of earth, and this ground connection may be at one or more points;



- (e) "Panelboard" shall mean a single panel containing "Panel-board." busses, fuses and switches to control lights, and devices of small individual as well as aggregate capacity, placed in or against a wall or partition and accessible only from the front;
- (f) "Reconstruction" shall mean replacement of any "Recon-struction." portion of an existing installation by new equipment or construction, but does not include ordinary maintenance replacements;
- (g) "Switch" shall mean a device for opening or closing "Switch." or changing the connections of a circuit manually, and in these rules a "switch" is always to be understood as operated manually, unless otherwise stated;
- (h) "Switchboard" shall mean a large single panel or "Switch-board." assembly of panels on which are mounted switches, fuses, busses and usual instruments, and accessible both in front and in rear. Circuits and machinery of relatively large capacity are controlled from such boards;
- (i) "Utilization Equipment" shall mean equipment, "Utilization Equipment." devices and connected wiring, which utilize electrical energy for mechanical, chemical, lighting, testing or similar purposes and are not a part of supply equipment;
- (j) "Voltage" or "Volts" shall mean the highest effective "Voltage," "Volts," voltage between the conductors of the circuit concerned, except that in grounded multiwire circuits, "Voltage to Ground." not exceeding 750 volts between outer conductors, it means the highest effective voltage between any wire of the circuit and the ground, and in ungrounded, low-voltage circuits "Voltage to Ground" shall mean the voltage of the circuit;
- (k) "Wire gauge" shall mean the standard known as "Wire gauge." Brown and Sharpe (B. & S.).

### *Ground Rules*

(188) Where electrical apparatus or machinery is used at any mine it shall be in charge of an authorized person, who shall be qualified by experience to handle such apparatus or machinery. Every person operating or having charge of electrical apparatus shall have been instructed in his duty Competent person in charge.

and shall be competent for the work that he is set to do. Repairs, extensions and changes shall be made to existing electrical equipment and conductors only by authorized persons.

Supply stations to be inaccessible to unauthorized persons.

(189) No person, other than the person authorized by the owner, manager, or superintendent, shall enter an electrical supply station or interfere with the workings of any machine, transformer, motor, or apparatus connected therewith, and when the authorized person is not present the door of such room shall be kept securely locked.

General requirements.

(190) All electrical equipment shall be of such construction and so installed and maintained as to reduce the life and fire hazard as far as practicable.

Inspection and repairs.

(191) Electrical equipment shall comply with these Rules when placed in service, and shall thereafter be periodically inspected and, when necessary, cleaned. Defective equipment shall be put in good order or permanently disconnected. Defective wiring shall be repaired or removed.

Exceptions.

(192) Electrical utilization equipment as well as generating equipment, if enclosed in a separate room which is inaccessible to unauthorized persons, and when in service is under the control of a qualified electrical operator whose attention is not distracted by other processes, shall be considered as electrical supply station equipment, and such exceptions as are made to the general rules for supply stations shall apply to these installations.

Identification of equipment.

(193) All electrical equipment shall be suitably identified where necessary for safety. The voltage and intended use shall be shown, where important.

#### *General Grounding Rules.*

Circuits to be grounded.

(194) All circuits not over 150 volts shall be grounded if exposed to leakage from higher voltage circuits either through overhead construction or through transformers having primary voltage exceeding 750 volts. Three-wire single-phase circuits and three-wire direct-current circuits not exceeding 300 volts between outer conductors shall have the neutral grounded.

Equipment to be grounded.

(195) Electrical equipment shall, when practicable, have the exposed non-current-carrying parts, such as frames of motors, generators, switchboards, cases of transformers, oil switches and instruments and casings or wiring and conductors, permanently grounded,—

- (a) for all equipment over 150 volts;
- (b) for all equipment where metal parts are within reach of exposed grounded surfaces, such as metal frames of other machines, plumbing fixtures, conducting floors or walls (such as damp wood, concrete or rock underground). Grounded surfaces within five feet horizontally of the parts considered, or within eight feet vertically of the floor, shall be considered within reach.

(196) The point at which the ground conductor is attached to the equipment or wire runways, shall be readily accessible. Equipment and wire runways.

(197) The ground conductor shall be of copper or other metal which will not corrode excessively under the existing conditions and, if practicable, shall be continuous. Ground connections from circuits shall not be made to jointed piping within buildings, except that water or air piping beyond any point which is liable to disconnection may be used. Material and continuity of ground conductor.

(198) For grounding circuits the ground conductors shall have a carrying capacity equal to that of the circuit and must never be less than No. 6 B. & S. Size of ground conductor.

(199) For electrical equipment the current-carrying capacity of a ground conductor shall not be less than that provided by a copper wire of the size indicated in the following table. When there is no cut-out protecting the equipment, the size of the ground wire shall be determined by the design and the operating conditions of the circuit.

Capacity of nearest automatic cut-out	Required size ground conductor B. & S. gauge
0 to 200 amperes.....	6
201 to 500 amperes.....	4
Over 500 amperes.....	2

(200) In portable cord to portable equipment protected by fuses not greater than ten-ampere capacity, No. 16 ground wire may be used.

(201) Ground conductors shall have mechanical protection and insulating guards extending for a distance of not less than eight feet above any ground, platform or floor. If attached to buildings, ground conductors shall be supported on insulators and shall be protected by porcelain bushings through floors, partitions or walls. Protecting ground wire.

(202) Main water or air lines may be used for grounds, provided that connection is made at a point where the pipe Character of ground.

is not liable to disconnection for alteration or repairs. Main water or air lines may be substantially bound together for this purpose, but shall, unless connected to a buried piping system of considerable extent, be connected to an artificial ground.

Method of connection.

(203) The ground connection to metallic piping systems shall be made by sweating a ground wire into a lug attached to a suitable clamp and firmly bolting the clamp to the pipe, after all rust and scale have been removed, or by any other equivalent method.

Artificial grounds.

(204) Artificial grounds shall be located, where practicable, below the permanent moisture level, or failing this at least six feet deep. Each ground shall present not less than four square feet of surface to the exterior soil. Areas where ground water level is close to the surface shall be used where available.

Where separate ground conductors required.

(205) Ground conductors shall be run separately to the ground (or to a sufficiently heavy grounding bus or system ground cable which is connected to ground at more than one place) from equipment and circuits of each of the following classes: (1) lightning arresters; (2) secondaries connected to low-voltage lighting or power circuits; (3) secondaries of current and potential transformers and cases of instruments on these secondaries; (4) equipment operating in excess of 750 volts; (5) frames of utilization equipment or wire runways other than covered by item (4).

Lightning arrester grounds

(206) Lightning arrester ground connections shall not be made to the same artificial ground (driven pipe or buried plate) as circuits or equipment, but shall be well spaced, and, where practicable, at least twenty feet from other artificial grounds.

#### *Working Space about Electrical Equipment.*

Utilization equipment.

(207) Suitable working space shall be provided and maintained about all electrical equipment. Where adjacent to exposed live parts such working spaces shall be so arranged that they will not be used as passageways. The working spaces shall, where practicable, have minimum horizontal dimensions, where adjacent to exposed live parts within eight feet of the floor, as follows: (1) parts above 150 volts to ground, if on one side, 2.5 feet; if on two sides, four feet; (2) parts below 150 volts to ground, if on one side, 1.5 feet; if on two sides, 2.5 feet.

Supply station equipment.

(208) In supply station equipment the following clearances only need be maintained: (1) parts from 300 up to 750 volts,



if on one side, not less than 2.5 feet; if on two sides, not less than three feet; (2) parts above 750 volts, if on one side, not less than three feet; if on two sides, not less than five feet.

*Guarding or Isolating Live Parts.*

(209) In supply station equipment, current-carrying parts shall be guarded unless they are maintained at the following distances above the floors which may be occupied by persons.

Voltage of conductors	Elevation in feet
300 to 750.....	7
750 to 2,500.....	7.5
2,500 to 7,500.....	8
7,500 to 30,000.....	9
30,000 to 70,000.....	10
70,000 to 100,000.....	12

(210) All exposed current-carrying parts of electrical equipment such as bus bars, conductors and terminals operating at over 150 volts and not isolated by an elevation of at least eight feet, shall be provided with suitable permanent enclosures or other guards arranged so as to prevent persons or conducting objects from inadvertently coming (or being brought) in contact with the parts in question.

(211) Where the current-carrying parts at over 150 volts, or in supply stations at over 300 volts to ground, must necessarily be exposed (unguarded) within eight feet, or in supply stations within the limits called for in Rule 209, from the floor line, all surrounding conducting floors shall be covered with suitable insulating platforms, mats or other insulating devices.

(212) Where the current-carrying parts operate at over 7,500 volts, enclosing or barrier guards shall always be provided, even when insulating mats are also provided.

*Storage Batteries.*

(213) Storage batteries in rooms used also for other purposes shall be adequately guarded or enclosed. Means shall be provided, if necessary, to prevent dangerous accumulations of inflammable gas. Batteries whose operating voltage exceeds 50 volts shall be installed in conformity with the general rules covering equipment.

*Transformer Rules.*

(214) Secondary circuits of current transformers shall be provided with means for short-circuiting them which can be readily connected while the primary is energized, and which

are so arranged as to permit the removal of any instrument or other device from such circuits without opening the circuits.

(215) When primaries are above 7,500 volts secondary circuits of current and potential transformers, unless otherwise adequately protected from injury or contact of persons, shall be in permanently grounded conduit.

(216) The low-voltage circuit of all instrument transformers shall be permanently grounded unless the circuits are installed and guarded as required for the high-voltage circuits of the transformers.

Oil  
immersed  
trans-  
formers.

(217) Oil immersed transformers shall not be mounted on or above combustible roofs or attached to any building not of fireproof construction other than a transformer house and if within a building other than a transformer house must be in a fireproof compartment, suitably drained and ventilated to outdoors, the door openings to be provided with not less than six-inch non-combustible sills.

Transformer  
stations to  
be fireproof.

(218) Transformer stations, if not entirely of fireproof construction, shall be located at least fifty feet distant from other buildings.

### *Lightning Arrester Rules.*

Inaccess-  
ible to  
unauthorized  
persons.

(219) If the operating voltage of the circuit exceeds 750, the lightning arresters shall be made inaccessible to unauthorized persons.

Location.

(220) Lightning arresters, when installed inside of buildings, shall be located as far as practicable from all other equipment and from combustible parts of the building.

Provisions  
for discon-  
necting.

(221) Lightning arresters on circuits over 7,500 volts and all lightning arresters which may require work to be done upon them from time to time, shall be so arranged, isolated, and equipped that they may be readily disconnected from conductors to which they are connected by air-break manual disconnectors.

Ground  
wires.

(222) Ground wires shall be run as directly as possible and be of low resistance and ample capacity. In no case shall ground wires be less than No. 6 copper wire. Ground conductors for lightning arresters shall not pass through iron or steel conduits unless electrically connected to both ends of such conduits.

(223) All non-current-carrying parts of the arresters shall be grounded, unless effectively isolated by elevation, or guarded as required for live parts of the voltage of the circuit to which the arrester is connected and suitably identified as to that voltage.

Grounding  
non-current-  
carrying  
parts.

(224) All current-carrying parts of arresters on circuits above 750 volts, unless effectively isolated by elevation, shall be adequately guarded to protect persons from inadvertent contact with them, or from injury by arcing. Guarding shall comply with Rules 210 and 228.

Guarding  
live parts.

### *Conductors.*

(225) Conductors shall be suitable for the location, use and voltage and each conductor (except neutral conductors, ground wires, and conductors of circuits, the opening of which may cause special hazard by interruption of service or removal of protection), shall be protected against excessive current by suitable automatic cut-out or by the design of the system.

Electrical  
protection of  
conductors.

(226) All conductors normally grounded for the protection of persons shall be arranged without automatic cut-outs interrupting their continuity between the sources of electrical supply and the point at which the ground wire is attached, unless the cut-out opens all the conductors of the system with one operation.

Cut-outs  
omitted.

(227) All conductors where not protected by conduit or armouring shall have approved insulation and shall be mounted on cleats, porcelain knobs or insulators and shall be separated from contact with floors, walls or partitions by tubes of incombustible insulating material.

Insulating  
conductors.

(228) All fixed conductors operating at over 150 volts or in supply stations at over 750 volts unless isolated by an elevation of at least eight feet shall be enclosed in grounded metal conduit, grounded metal sheathing, or shall be guarded by permanent screens or enclosures.

Isolating  
conductors.

(229) Bare conductors shall be used only for switchboard, panelboard, storage-battery connections or for open wiring at voltages exceeding 2,400 volts in supply stations or for electrolytic low-voltage furnaces and similar connections, or for trolley wires and other contact conductors. Except at points where permanent ground connections are made such conductors within buildings shall be kept insulated from the ground.

Use of bare  
conductors.

Temporary  
wiring.

(230) Temporary wiring and equipment, which is not in compliance with these rules, may be used, but only when under competent supervision, or protected by suitable barriers or warning signs while it or neighbouring wiring is alive and accessible to unauthorized persons.

*Fuses, Cut-outs, Switches and Controllers.*

General  
requirement  
of switches.

(231) All switches, automatic cut-outs, controllers, starting rheostats, auto starters and other control devices shall be readily and safely accessible to authorized persons; they shall be so located, labelled or marked as to afford means of identifying circuits or equipment supplied through them, and to indicate whether they are open or closed. They shall be so installed, where practicable, that they cannot be closed by gravity and such switches as close by gravity shall be provided with a proper stop block or latch to prevent accidental closing.

Switches  
required for  
equipment.

(232) Suitable switches shall be inserted in all circuit leads to generators, motors, transformers, storage batteries, electric furnaces and similar equipment except between parts or pieces of apparatus intended to operate as a unit.

Switches  
required in  
feeders.

(233) Suitable switches shall be inserted in all feeder conductors connecting utilization installations to service connections from either overhead or underground lines. These switches shall be readily accessible, and as close as practicable to the point of connection with the overhead or underground lines.

Switches for  
temporary  
wiring.

(234) Switches or plug connectors shall be placed in all circuit leads at the point where temporary wiring or portable conductors are connected to the permanent wiring.

Capacity of  
switches.

(235) Switches used otherwise than as disconnectors shall have a rated capacity such as to insure safe interruption, at the working voltage, of the greatest current which they may be required to carry continuously, and shall be marked with the current they can safely interrupt.

Switches  
to have  
sufficient  
rupturing  
capacity.

(236) All cut-outs, switches, circuit breakers and other apparatus used for opening or closing an electric circuit shall be of such design as to operate safely on the system from which the circuit is energized.

Dis-  
connectors.

(237) Disconnectors shall be of suitable voltage and ampere rating for the circuit in which they are installed and shall be accessible only to qualified persons. They shall also be pro-



tected by signs warning against opening the switch while carrying current in excess of the safe opening limit.

(238) Means shall be provided so that switches controlling apparatus can be locked or blocked in the open position or plainly tagged to prevent careless closing while work is being done on the equipment unless all live and moving parts of the equipment are in plain sight of the switch.

Locking or blocking switches.

(239) Switches, controllers and rheostats shall be so constructed as to make and maintain good contact. Knife switches shall maintain such alignment under service conditions that they may be closed with a single unhesitating motion.

Good contact required on switches.

(240) Unless a switch, operating on a circuit above 300 volts, makes an air break there shall, if equipment controlled by such switch requires adjustment or repairs while the conductors leading to such switch are still alive, be installed between it and the source of energy supply a suitable air-break disconnecter.

When air-break switches needed.

(241) All manual switches over 150 volts to ground or in supply stations over 300 volts to ground shall have suitable casings or guards protecting the operator from danger of contact with current-carrying parts or being burned by arcing at the switch.

Enclosing live parts of switches.

(242) All switches interrupting circuits over 300 volts shall be operated by means of remote control mechanism or be provided with suitable casings protecting the operator from danger of contact with current-carrying parts, except as provided in rule 244. The control device for switches shall indicate whether the switches are open or closed.

Guarding switches above 300 volts.

(243) Switches shall, if practicable, be so connected that switch blades will not be alive when in the open position.

Connections to switches.

(244) Where switches, disconnectors, and fuses above 750 volts are ordinarily guarded by covers or enclosed in separate rooms, but must occasionally be operated without such protection, either by removal of the covers or by entrance into the rooms, adequate working space shall be provided about the live parts so that the operator will not be required to bring any part of his body within the following horizontal distances:

Working spaces about ordinarily guarded switches above 750 volts.

Voltage of parts	Distance in feet
750 to 7,500	1
7,500 to 30,000	2
30,000 to 50,000	3
50,000 to 70,000	4
70,000 to 100,000	5

Switches to be placed before fusible cut-outs.

(245) On circuits up to 300 volts to ground, where fusible cut-outs are not so arranged that they are necessarily disconnected from all sources of electrical energy before the ungrounded current-carrying parts can be touched, switches shall always be so placed or arranged that opening them will disconnect the fuses from all sources of electrical energy.

Protecting fusible cut-outs above 300 volts.

(246) Fusible cut-outs above 300 volts to ground shall be in a cabinet or otherwise made inaccessible to all but authorized persons, and switches shall be so placed and arranged that opening them will disconnect the fuses from all sources of electrical energy.

Fuses in fireproof cabinets.

(247) All fusible cut-outs shall be installed in approved fireproof cabinets.

Capacity of fuses.

(248) The rated capacity of the fuses shall not exceed the allowable carrying capacity of the conductor.

### *Switchboards.*

Switchboards to be readily accessible.

(249) Switchboards and panelboards shall have all switches arranged so that the means of control are readily accessible to the operator.

Switchboards to be convenient for operation.

(250) Instruments, relays or other devices requiring reading or adjustment shall be so placed that the work can be readily performed from the working space provided.

Location and lighting of switchboards.

(251) Switchboards shall be so placed that the person operating them will not be endangered by machinery or equipment located near the board. Means for adequate illumination shall be provided.

Protecting against short circuiting on switchboards.

(252) Exposed bare parts of different potentials on any switchboard or panelboard shall be as few as practicable and these shall be effectively separated.

Guarding current-carrying parts of switchboards.

(253) All switchboards and panelboards having exposed current-carrying parts operating at over 150 volts to ground shall, when practicable, be suitably encased in locked cabinets, screens, or rooms, or other enclosures to make them inaccessible to other than authorized operators. Conducting floors about such boards, and in supply stations about boards having equipment, operating at over 300 volts to ground shall be provided with suitable insulating platforms or mats so placed that no person can inadvertently touch live parts unless standing on the insulating platform or mats.

(254) Where switchboards or panelboards at voltages below 150 to ground are accessible to other than authorized operators, they shall, where practicable, be enclosed in cabinets or screens as an effective precaution against accidental short circuit at times when no operation of the board necessitates the opening of the cabinet or screen.

Switch-boards below 150 volts accessible to unauthorized persons.

#### *Motor Control Devices.*

(255) Manually controlled starters for all D.C. motors and for all A.C. motors over five horsepower shall be so designed and the circuits so arranged that they return automatically to the "off" position upon the failure of the energy supply, except where the motors and their starting devices are, during operation, under the supervision of qualified persons and equivalent protection is otherwise provided.

Motor control devices.

(256) Each motor must be protected against excessive overload current by cut-out or automatic circuit breaker, and overload device should interrupt the circuit at fifty per centum over normal motor-current rating. An auto starter which disconnects all wires of the circuit automatically under overload when in the running position may be used as circuit breaker.

Protecting motors against overload.

#### *Illuminating Supply Stations.*

(257) Rooms and spaces shall have good artificial illumination. Arrangement of permanent fixtures and plug receptacles shall be such that the portable cords need not be brought into dangerous proximity of live electrical apparatus. All lamps shall be arranged to be controlled, replaced, or trimmed from readily accessible places.

Lighting for supply stations.

(258) A separate emergency source of illumination, from an independent generator, storage battery, lanterns or other suitable source, shall be provided in every station where an attendant is located.

Emergency lighting for supply stations.

#### *Fire-Fighting Appliances.*

(259) Each room or space where an operator is in attendance shall be provided with an adequate approved fire-extinguishing appliance conveniently located and conspicuously marked. No chemical appliance which has not been approved for use on live parts shall be placed in any room containing electric apparatus or exposed lines.

Fire-fighting appliances.

*Lighting Fixtures.*

Guarding  
current-  
carrying  
parts of  
lighting  
fixtures.

(260) Electric fixtures, such as lamp sockets and lamp bases, plugs, receptacles, etc., shall be so installed that no current-carrying parts will normally be exposed externally when these parts are within reach of grounded surfaces (see rules 210, 211 and 212). The high-temperature current-carrying parts of radiant heaters are exempted.

Portable  
lamps.

(261) Portable lamps shall not be connected to circuits operating at over 300 volts to ground.

Portable  
conductors  
exposed to  
injury.

(262) In locations where exposed to dampness or mechanical injury, portable conductors shall be of reinforced weatherproof cord, and, when necessary, armoured.

Style of  
portable  
lamps  
permitted.

(263) In locations where exposed to dampness or mechanical injury, portable lamps shall have their sockets enclosed in wood or composition handles, through which the conductor shall be carried, and shall have a substantial wire cage which encloses the lamp. A hook for hanging the lamp shall be attached either to the cage or to the handle.

*Trolleys and Portable Apparatus.*

Guarding  
trolley or  
crane  
collector  
wires.

(264) Trolley or crane collector wires, whether indoors or out, shall, where practicable, be elevated at least 8 feet above the rail level and be provided with suitable guards so arranged that persons cannot inadvertently touch the current-carrying parts while in contact with the ground or with conducting material connected to the ground.

Operating  
voltage in  
tunnels, etc.

(265) In tunnels or under bins or in similar locations where trolley wires are necessarily less than 8 feet above the rail level, the operating voltage shall not exceed 300 and the wires shall be efficiently guarded to prevent accidental contact of person.

Portable  
and pendant  
conductors.

(266) Portable and pendant conductors shall not be installed or used on circuits operating at over 150 volts to ground, unless they are accessible only to persons authorized to approach them. In such cases they shall be of a type suitable to the voltage and conditions.

*Cranes and Elevators.*

Dis-  
connections  
for cars and  
cranes.

(267) Readily accessible means shall be provided whereby all conductors and equipment located in or on cars or cranes can be disconnected entirely from the source of energy at a



point as near as possible to the trolley or other current collector.

(268) A circuit breaker or switch, capable of interrupting the circuit under heavy loads, shall be used unless the current collector can be safely removed, under heavy loads, from the trolley wire. Switch needed on cars and cranes.

#### *Telephone Exposed by Supply Lines.*

(269) Telephone or other signal apparatus which must be handled by persons and which is connected to overhead signal circuits exposed by supply lines over 400 volts to ground shall be protected as follows: Protecting telephone equipment exposed by high voltage.

(a) by fuses and arresters;

(b) All exposed non-current-carrying metal parts shall be permanently grounded;

(c) The apparatus shall be installed in such a way that the person using it will be obliged to stand on a suitably insulated platform, in a suitably insulated booth or on other insulating surfaces.

(270) Telephone or signal apparatus which is connected to a line which parallels a supply circuit of high voltage in such a manner as to be exposed to induced voltage shall be protected by transformers and shall comply with the requirements of rule 269. Protecting telephone signal equipment exposed to induced voltage.

#### *Transmission Lines.*

(271) All electrical supply lines and equipment shall be of suitable design and construction for the service and the conditions under which they are to be operated, and all lines shall be so installed and maintained as to reduce the life hazard as far as practicable. Design and construction of supply lines.

(272) Conductors and other current-carrying parts of supply lines shall be so arranged as to provide adequate clearance from the ground or other space generally accessible, or shall be provided with guards so as to effectively isolate them from accidental contact of person. Guarding supply lines.

(273) Where supply lines over 300 volts to ground are attached to any buildings, for entrance, they shall be permanently guarded if accessible. Entrance to buildings.

Clearance  
required  
by supply  
lines over  
railways.

(274) Supply lines carried over railways operated by steam, electric or other motive power and on which standard equipment, such as freight cars, is used shall have the style of construction and clearances overhead as called for in the rules of the Board of Railway Commissioners of the Dominion of Canada. Supply lines crossing over railways on which standard equipment is not used and lines crossing over roadway shall have ample clearance for the operating conditions and shall be substantially supported.

### *Underground.*

Restrictions  
on use of  
motors  
under-  
ground.

(275) Except with the written permission of the Chief Inspector, who shall prescribe such conditions as he may deem fit,—

- (a) No motor over 750 volts to ground shall be used underground;
- (b) The voltage supply for electrical traction underground shall not exceed 300;
- (c) No electrical energy higher than 750 volts to ground shall be transmitted underground.

In under-  
ground  
installations  
switch to be  
placed at  
surface.

(276) Where electrical energy is taken underground provision shall be made that the current can be cut off, on the surface, close to the point where it is led underground. The cut-off switch or switches shall be situated in a locked building or compartment, and same shall be accessible only to an authorized person or persons.

Fire  
preven-  
tion about  
electrical  
installations.

(277) The bases of electric motors, transformers, starting equipment and other electrical apparatus and the compartments in which such are installed shall be of such material and constructed in such manner as to reduce the fire hazard to a minimum. No inflammable material shall be stored or placed in the same compartment with any such equipment or apparatus.

Conduits  
required.

(278) All cables over 150 volts transmitting power underground shall be armoured or enclosed in standard conduit and substantially supported.

Conduits  
or insulators  
for lighting  
circuits.

(279) Wires carrying not over 150 volts to ground for lighting and signal circuits shall either be in standard conduits or casings, or suspended from and securely tied to porcelain or glass insulators, so that they do not touch any timbering or metal. On no account shall staples be used.

(280) The armouring or casing of cables, mentioned in rules 278 and 279, shall be bonded together so as to be electrically continuous, and shall be connected at some point or points to a satisfactory ground. Groundings of casings.

(281) All rules governing grounding of electrical apparatus in general work shall apply equally to underground work. Method of grounding.

(282) All proper precautions shall be taken to prevent electrical signal or telephone wires, whether insulated or not, coming into contact with other electrical conductors. Precautions to protect signal and telephone wires.

### *Rules Governing Electric Hoists.*

(283) When the inspector has cause to believe that the shaft conveyance operated by any electric hoist is being overloaded he shall have the power to order a test to be made. Testing for overloading.

### *Damage to Property.*

(284) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, electrical equipment or other appliance or thing provided in any mine in compliance with this Act. Wilful damage.

### *General.*

(285) No person under the influence of or carrying intoxicating liquor shall enter any mine or be in the proximity of any working place on the surface or near any machinery in motion. Persons under the influence of or carrying liquor.

(286) An abstract of the rules and regulations contained in this Act, authorized by the Chief Inspector, shall be posted up in suitable places at the mine or works where the same can be conveniently read and the owner or agent of the mine shall maintain such abstract, duly posted, and the removal or destruction of the same shall be an offence against this Act. 1930, c. 8, s. 7, *part*. Abstract of rules to be posted.

### *Payment of Wages.*

**161.**—(1) No wages shall be paid to any person employed in or about any mine to which this Part applies at or within any tavern, shop or place where spirits, wine, beer or other spirituous or fermented liquors are sold or kept for sale, or within any office, garden, or place belonging or contiguous thereto or occupied therewith. Prohibition of payment of wages at public houses.

Penalty

(2) Every person who contravenes or permits any person to contravene this section shall be guilty of an offence against this Act, and in the event of any such contravention by any person whomsoever the owner and agent of the mine in respect of which the wages were paid shall also each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention by publishing and to the best of his power enforcing the provisions of this section.

Payment  
of wages at  
least fort-  
nightly.

(3) Notwithstanding any agreement to the contrary, every person who performs labour for wages in connection with any mine, mining claim, mining lands, or works connected therewith, shall be paid such wages not less frequently than twice a month. 1930, c. 8, s. 7, *part*.

### *Damaging Other Claims.*

Licensees not  
to damage  
other claims.

**162.** No person or company shall, without right or authority, cause damage or injury to the holder of any other mining property by throwing earth, clay, stones, or mining material thereon, or by causing or allowing water which may be pumped or bailed or which may flow from a mining claim or other mining property of such person, to flow into or upon such other mining property, and the offender in addition to any civil liability shall incur a penalty of not more than \$10 for every day such damage or injury continues, and in default of payment of the penalty and costs, may be imprisoned for any period not exceeding one month. 1930, c. 8, s. 7, *part*.

### *Party Wall.*

Party walls,  
thickness of.

**163.**—(1) Except as provided for in subsection 17 of section 160, or unless the owners agree to dispense therewith, in all mining operations there shall be left between all adjoining properties a party wall at least fifteen feet thick (being seven and one-half feet on each property), to the use of which the adjoining owners shall be entitled in common.

Use in  
common.

(2) The owners shall be entitled to use such party wall in common as roadway for all purposes, and such roadway shall not be obstructed by the throwing of soil, rock or other material thereon, or in any other way, and any person obstructing the same in addition to any civil liability shall incur a penalty of not more than \$10 for every day such obstruction continues.

Dispensing  
with.

(3) Any such adjoining owners may, in any case, apply to the Judge, who may make an order dispensing with such party wall or roadway, or providing for the working of any material therein, or otherwise as he may deem just.



(4) When the owner of a mine or mining property has reason to believe that a breach has been made in the party wall between his own and an adjoining property or that a trespass has been committed with respect thereto, the Judge may upon application to him authorize a competent and disinterested person to examine such party wall and for such purpose enter the said mine or mining property with an assistant or assistants and use if necessary the workings and appliances thereof, and the person so appointed shall immediately after such examination report in writing his findings to the Judge. The time when such examination shall be made and the cost thereof and any damage resulting therefrom shall be fixed by the order of the Judge.

Examination  
of party wall.

(5) Where a breach has been made in a party wall of a mine by the owner of an adjoining mine or by his workmen, servants or agents without permission of the owner of such first mentioned mine or the authority of the Mining Court or the Department, the Judge of the Mining Court upon the application of such first mentioned owner may make an order directing the owner of such adjoining mine to permanently close such breach or do such other things as the Judge may deem necessary or advisable to prevent water flowing into the mine of the applicant, and if work has been discontinued in such adjoining mine, or if for any other reason he deems it expedient, the Judge may authorize the applicant to enter upon the adjoining mine and into the works thereof and to erect bulkheads therein and do all such other things or make such use of the works of the adjoining mine as the Judge may deem necessary or advisable for the purpose of protecting the mine of the applicant and his workmen and employees from damage or danger from accumulations of water in the adjoining mine.

Order for  
closing  
breach in  
party wall.

(6) The Judge for good cause shown and on such terms as may seem just may by subsequent order at any time change, supplement, alter, vary or rescind any order made under the authority of this section. 1930, c. 8, s. 7, *part*.

Varying  
order.

#### *Notice of Accidents.*

**164.**—(1) Where, in or about any mine, whether above or below ground, any accident occurs which causes loss of life to any person employed in or about the mine, the owner, agent, manager or superintendent of the mine shall immediately notify, by telephone or telegraph, the Deputy Minister.

Accidents  
causing  
death,—  
notice of.

(2) Where, in or about any mine, whether above or below ground, any accident occurs which causes fracture or dislocation of any of the bones of the body, or any other serious

Notice  
of serious  
injury.

personal injury, to any person employed in or about the mine, the owner, agent, manager or superintendent of the mine shall within three days next after the accident send notice in writing to the inspector resident in that district on the form prescribed for such purpose.

"Serious personal injury,"—  
meaning of.

(3) "Serious personal injury" shall mean such an injury as in the opinion of the attending physician may result in the injured person being incapacitated for work for at least seven days.

Accidents.

(4) Where in or about any mine,—

Over-  
winding.

(a) any case of overwinding a skip or cage;

Breakage  
in cables.

(b) any breakage of a rope or cable used for hoisting;

Inrush  
of water.

(c) any inrush of water from old workings or otherwise;

Fire below  
ground.

(d) any outbreak of fire below ground; or

Explosions.

(e) any premature or unexpected explosion,—

Notice to  
inspector.

occurs, whether or not loss of life or personal injury is caused thereby, the owner, agent, manager, or superintendent shall, within twenty-four hours next after the occurrence, send notice in writing to the inspector resident in the district, and shall furnish such particulars in respect thereof as may assist the inspector in making inquiry into the circumstances. 1930, c. 8, s. 7, *part*.

Notice of  
changes in  
connection  
with the  
working of  
a mine or in  
respect of  
its officers.

**165.** Where mining operations have been commenced upon any mine, claim, location or works, or where such operations have been discontinued, or where such operations have been recommenced after an abandonment or discontinuance for a period exceeding two months, or where any change is made in the name of a mine or in the name of the owner or agent thereof, or in the officers of any incorporated company which is the owner thereof, the owner or agent of such mine, claim, location or works shall give notice thereof to the Deputy Minister within two months after such abandonment, discontinuance, recommencement or change, and if such notice is not given the owner or agent shall be guilty of an offence against this Act. 1930, c. 8, s. 7, *part*.

#### *Statistical Returns.*

Statistical  
returns by  
owners and  
agents of  
mines.

**166.**—(1) For the purpose of their tabulation under the instructions of the Minister the owner or agent of every mine, quarry or other works to which this Act applies shall, on or

before the 15th day of January in every year, send to the Department a correct return for the year which ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, and distinguishing the different classes and ages of the persons so employed whose hours of labour are regulated by this Act, the average rate of wages of each class and the total amount of wages paid during the year, the quantity in standard weight of the mineral dressed, and of the undressed mineral which has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister may by regulation prescribe.

(2) The owner or agent of every metalliferous mine shall, if required, make a similar return for the month or quarter at the end of each month or quarter of the calendar year. Monthly or quarterly returns.

(3) Every owner or agent of a mine, quarry or other works who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act. 1930, c. 8, s. 7, *part*. Penalty.

#### *Plans of Workings.*

**167.**—(1) On any examination or inspection of a mine the owner shall, if required, produce to the inspector, or to any other person authorized by the Minister or Deputy Minister, an accurate plan and sections of the workings of the same. Plans to be produced on inspection of mine.

(2) The plan and sections shall show the workings of the mine up to within six months of the time of the examination or inspection, and the owner shall, if required by the inspector or other authorized person, cause to be marked on the plan the progress of the workings of the mine up to the time of the examination or inspection, and shall also permit him to take a copy or tracing thereof. Marking subsequent progress on plan.

(3) An accurate plan on a scale of not more than fifty feet to the inch of every working mine in which levels, crosscuts or other openings have been driven from any shaft, adit or tunnel, and of every mine consisting of a tunnel or shaft fifty feet or more in length shall be made and a certified copy filed in the Department on or before the 31st day of March in each year, showing the workings of the mine up to and including the 31st day of December next preceding. Plan of working mines to be filed.

(4) Before a mine or any part of a mine is abandoned, closed down or otherwise rendered inaccessible, all underground plans and sections shall be brought up to date and a certified copy filed in the Department. Plans to be filed before abandonment.

Failure  
to furnish  
plans.

(5) Failure on the part of the owner or agent of the mine to comply with any provision of this section shall be an offence against this Act.

Plans to be  
treated as  
confidential.

(6) Every such plan shall be treated as confidential information for the use of the officers of the Department and shall not be exhibited nor shall any information contained therein be imparted to any person except with the written permission of the owner or agent of the mine.

Penalty

(7) Every owner or agent of a mine, quarry or other works who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act. 1930, c. 8, s. 7, *part.*

*Powers and Duties of Inspectors.*

Powers of  
inspector.

**168.**—(1) It shall be the duty of every inspector, and he shall have power,—

Inquiries  
as to com-  
pliance with  
Act.

(a) to make such examination and inquiry as he may deem necessary to ascertain whether the provisions of this Act are complied with, and to give notice to the owner or agent in writing of any particulars in which he considers such mine or any portion thereof, or any matter, thing or practice to be dangerous or defective or contrary to the provisions of this Act, and to require the same to be remedied within the time named in such notice;

Inspection.

(b) to enter, inspect and examine any mine and any portion thereof at any reasonable time by day or night, but so as not to unnecessarily impede or obstruct the working of the mine;

Stopping  
work when  
mine unsafe.

(c) to order the immediate cessation of work in and the departure of all persons from any mine or portion thereof which he considers unsafe, or to allow persons to continue to work therein on such precautions being taken as he deems necessary;

General  
powers for  
protection  
of miners.

(d) to exercise such other powers as he may deem necessary for ensuring the health and safety of miners and all other persons employed in or about mines, smelters, metallurgical and mining works.

Annual  
report.

(2) It shall be the duty of every inspector to make an annual report of his proceedings during the preceding year to the Deputy Minister.



(3) The annual report shall be laid before the Assembly. Report to be laid before Assembly.  
1930, c. 8, s. 7, *part*.

**169.**—(1) The Minister may direct an inspector to make Special report.  
a special report with respect to any accident in or about any mine which has caused loss of life or personal injury to any person.

(2) In conducting the inquiry the inspector shall have power Inspectors may take evidence.  
to compel the attendance of witnesses and the production of books, documents and things, and to take evidence upon oath.  
1930, c. 8, s. 7, *part*.

**170.**—(1) Non-compliance with any written order of an Offences.  
inspector issued in accordance with section 168 shall be deemed an offence against Part VIII.

(2) Failure to give written notice of the completion of any work in accordance with any written order of an inspector issued under section 168 shall be deemed an offence against Part VIII. 1930, c. 8, s. 7, *part*.

## PART IX.—OFFENCES, PENALTIES AND PROSECUTIONS,

**171.** Every person who,—

Description of offences.

- (a) prospects, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with the provisions of this Act; or
- (b) wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act; or
- (c) wilfully pulls down, injures or defaces any rules or notice posted up by the owner or agent of a mine; or
- (d) wilfully obstructs the Judge or any officer appointed under this Act, in the execution of his duty; or
- (e) being the owner or agent of a mine refuses or neglects to furnish to the Judge or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to any mine, under the provisions of this Act other than Part VIII; or R.S.O. 1927, c. 45, s. 175, cls. (a-e).

- (f) unlawfully marks or stakes out in whole or in part a mining claim, a placer mining claim, or an area for a boring permit; or R.S.O. 1927, c. 45, s. 175, cl. (f); 1931, c. 10, s. 17.
- (g) wilfully acts in contravention of the provisions of this Act other than Part VIII in any particular not hereinbefore set forth; or
- (h) wilfully contravenes any provision of this Act or any rule or regulation made thereunder for the contravention of which no other penalty is provided; or  
R.S.O. 1927, c. 45, s. 175, cl. (g, h).
- (i) wilfully makes any material change in the wording or numbering of a miner's license after issue of the same; 1932, c. 13, s. 3.
- (j) attempts to do any of the acts mentioned in the foregoing clauses,—

Penalty  
for altering  
license.

Penalty.

shall be guilty of an offence against this Act and shall incur a penalty not exceeding \$20 for every day upon which such offence occurs or continues. R.S.O. 1927, c. 45, s. 175, cl. (i).

Disobeying  
order or  
award of  
Judge.

**172.** Every person who wilfully neglects or refuses to obey any order or award of the Judge, except for the payment of money, shall, in addition to any other liability, incur a penalty not exceeding \$250, and upon conviction thereof shall be liable to imprisonment for a period not exceeding six months unless such penalty and costs are sooner paid. R.S.O. 1927, c. 45, s. 176.

Use of word  
"Bureau"  
prohibited.

**173.—(1)** No person who,—

- (a) carries on the business of mining or dealing in mines, mining claims, mining lands, or mining rights, or the shares, stocks, or bonds of a mining company; or
- (b) acts as broker or agent in or for the disposal of any mines, mining claims, mining lands, or mining rights, or of any such shares, stock or bonds; or
- (c) offers or undertakes to examine or report on a mine, mining claim, mining land or mining rights,—

shall use the word "Bureau" as the name or title or part of the name or title under which he acts or carries on business.

Penalty.

(2) Every person who contravenes the provisions of this section shall incur a penalty of not more than \$20 for every

day upon which such offence occurs or continues. R.S.O. 1927, c. 45, s. 177.

**174.**—(1) Every owner, agent, manager, superintendent, or captain who is guilty of an offence against Part VIII shall incur a penalty of not less than \$100 nor more than \$1,000. Liability of owner or agent offending against Part VIII.

(2) Every person, other than an owner, agent, manager, superintendent or captain, engaged or employed in or about a mine who is guilty of an offence against Part VIII shall incur a penalty of not less than \$10 or more than \$100. Other person so offending.

(3) Where the Deputy Minister or an inspector has given written notice to an owner or agent or any person engaged or employed in or about a mine that an offence has been committed against Part VIII, such owner or agent or other person shall incur a further penalty not exceeding \$100 for every day upon which the offence continues after such notice. Additional penalty for continuing offence.

(4) Every such owner or agent shall upon conviction be liable to imprisonment for a period not exceeding three months unless the penalty and costs are sooner paid, and every person other than an owner or agent so employed shall upon conviction be liable to imprisonment for a period not exceeding one month unless the penalty and costs are sooner paid. Imprisonment in default of payment of penalties.

(5) Where the offence is one which might have endangered the safety of those employed in or about the mine or caused serious personal injury or dangerous accident, and was committed wilfully by the personal act, default or negligence of the accused, every person who is guilty of an offence against Part VIII shall, in addition to or in substitution for any pecuniary penalty that may be imposed, be liable to imprisonment with or without hard labour for a period not exceeding three months. R.S.O. 1927, c. 45, s. 178. Imprisonment of offender against Part VIII in certain cases.

**175.**—(1) No prosecution shall be instituted for an offence against Part VIII or any regulation made in pursuance thereof except,— Instituting prosecutions for offence against Part VIII.

(a) by an inspector; or

(b) by the direction of the county or district Crown Attorney; or

(c) by the leave in writing of the Attorney-General; For offences against other provisions.

or for an offence against any other of the provisions of this Act or of any rule or regulation made in pursuance thereof, except,—

- (a) by or by leave of the Mining Court or a recorder;
- (b) by leave of the Attorney-General; or
- (c) by direction of the county or district Crown Attorney.

When person  
not actual  
offender not  
liable.

(2) No person not being the actual offender shall be liable in respect of such offence, if he proves that he did not participate in the contravention of the rule or provision for a breach of which he is charged and that he was not to blame for such breach and that according to his position and authority he took all reasonable means in his power to prevent such breach and to secure compliance with the rules and provisions of Part VIII.

Onus of  
proof that  
compliance  
with rules  
not prac-  
ticable.

(3) The burden of showing that the observance or carrying out of any rule contained in section 158 was not deemed by the inspector to be reasonably practicable, shall be upon the accused, but it may be proved by a certificate from the inspector or by his evidence given at the hearing. R.S.O. 1927, c. 45, s. 179.

Procedure on  
prosecutions.

**176.**—(1) Except as to offences against section 14 every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a magistrate or a justice of the peace having jurisdiction in the county or district in which the offence is committed, or before the Mining Court or a recorder, and save as herein otherwise provided, the provisions of *The Summary Convictions Act* shall apply to every such prosecution.

Rev. Stat.,  
c. 136.

Limitation of  
prosecutions.

(2) The prosecution shall be commenced within six months after the commission of the offence. R.S.O. 1927, c. 45, s. 180.

## PART X.—GENERAL PROVISIONS.

### LIEN FOR WAGES.

Application  
of Rev. Stat.,  
c. 200.

**177.**—(1) Save as herein provided the provisions of *The Mechanics' Lien Act* shall apply to mines, mining claims, mining lands and works connected therewith.

Registration  
where lands  
and mining  
rights have  
not been  
patented.

(2) If the lands and mining rights have not been patented the registration provided for in the said Act shall be in the office of the recorder.



(3) When the claim is for wages in connection with a mine, mining claim, mining lands, or works connected therewith in addition to the rights and remedies afforded by *The Mechanics' Lien Act*, the claimant shall have a lien upon any other property of the owner in or on the said mine, mining claim, mining land or works, for a sum not exceeding thirty days' wages, and this claim may be enforced under the provisions of the said Act.

Lien where claim for wages.  
Rev. Stat., c. 200.

(4) When the Judge is satisfied that any claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or when the owner is unduly embarrassed thereby, he may make an order cancelling the same upon such terms as to security or otherwise as he may deem proper.

Cancellation of claim.

(5) A lien upon unpatented lands shall not affect the right of the Crown. R.S.O. 1927, c. 45, s. 181.

Lien on unpatented lands not to affect rights of Crown.

#### PRESERVATION OF PEACE.

**178.** The Lieutenant-Governor in Council may declare by proclamation that *The Public Works Peace Preservation Act* shall be in force in any mining division or in any defined locality therein, and upon and after the date named in any such proclamation section 1 and sections 3 to 9 of that Act shall take effect within the mining division or locality designated in the proclamation, and the provisions of the said Act shall apply to all persons employed in any mine or in mining within the limits of such mining division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act. R.S.O. 1927, c. 45, s. 182.

Powers of Lieutenant-Governor in Council.  
Rev. Stat., (1914), c. 36.

#### EXPLORATORY DRILLING.

**179.** The Minister may, out of any money appropriated for the purpose, purchase such diamond drills as he may deem necessary for use in prospecting for ores or minerals under rules and regulations made by the Lieutenant-Governor in Council, which may provide,—

Purchase of drills for prospecting purposes.

- (a) for the control and working of the drills under the direction of a person employed for the purpose by the Department;
- (b) for the payment of freight charges where the drills are used upon mines or land other than those owned by the Crown;

- (c) as to applications for use of the drills and the method of dealing therewith;
- (d) as to charges for use of the drills and for damages thereto, or wear and tear connected therewith;

and otherwise as to the Lieutenant-Governor in Council shall seem proper. R.S.O. 1927, c. 45, s. 183.

Sampling  
and testing  
of ores.

**180.** The Minister may, out of any moneys appropriated for the purpose, acquire and construct, and under rules and regulations made by the Lieutenant-Governor in Council, may operate works for the sampling and testing of ores of the precious metals, or works for the recovery of such metals, and may purchase and treat such ores or procure their treatment for the recovery of their contents, or for the purpose of determining the best and most efficient method or methods of such recovery, and the rules and regulations may provide for,—

- (a) the management and operation of such works by persons employed for the purpose by the Department;
- (b) the payment of freight charges upon ores and other material shipped to or from such works and all other necessary costs;
- (c) the charges to be paid for assaying, testing and treating such ores, and the making of deductions from the assay value thereof for losses in treatment;
- (d) the payment of the price of ores purchased and the time and method of such payment;
- (e) such other purposes as to the Lieutenant-Governor in Council may seem proper. R.S.O. 1927, c. 45, s. 184.

#### RIGHTS AND EASEMENTS.

What rights  
over other  
lands may be  
conferred by  
Judge.

**181.**—(1) Where required for or in connection with the proper working of a mine, mill for treating ore, or quarry, the owner, lessee or holder of it or the person entitled to work the same, may, subject as hereinafter provided, obtain and have vested in him by order or judgment of the Judge made after hearing such parties interested as may appear, or on appeal from him,—

- (a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water; Constructing ditches, flumes, etc. for water.
- (b) the right to discharge water upon any land or by, through or into any existing means of drainage, whether natural or artificial; Discharging water on lands.
- (c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, notwithstanding that the same or part thereof may be on the land of or owned by any other person or that any other person may have rights or interests in or to such water or the use thereof; Draining or diverting waters in streams, etc.
- (d) the right to collect and dam back water, notwithstanding that it may overflow other land; Storing water, flooding.
- (e) the right to take or divert and use for or in connection with the working of his own mine or quarry and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor; Right to take water.
- (f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor; Rights of way for roads, tramways, aerial tramways, etc.
- (g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor; Transmission of electricity.
- (h) the right to enter upon and use for or in connection with the working of his own mine or quarry a specified area of other land; Entering upon and using other lands.
- (i) the right to deposit tailings, slimes or other waste products upon any land, or to discharge the same into any water, the effect of such deposit or discharge not being injurious to life or health. R.S.O. 1927, c. 45, s. 185 (1). Depositing tailings and waste.

Compensation.

(2) No such right shall be granted unless any injury or damage caused to any other person thereby can be adequately compensated for, nor unless in all the circumstances it seems reasonable and fitting to grant the same, nor until in the case where injury or damage has already been suffered, compensation has been determined by the Judge, and the amount of the award paid, and in the exercise of any right so granted no unnecessary injury or damage shall be done to the land, property, rights, or interests of other persons, and all injury and damage which may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for. R.S.O. 1927, c. 45, s. 185 (2); 1931, c. 10, s. 18.

How fixed.

(3) The order or judgment granting the right shall fix such compensation, or shall provide for the ascertainment thereof and shall contain any provisions that may be deemed proper for securing the same and for protecting the rights and interests of any person whose land, property, rights or interests are affected or endangered, and if deemed proper may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, any such person or his land or property, and such order or award may in all cases be upon such terms, and may grant the right upon such conditions and for such time as may be deemed meet.

Material to be filed on application

(4) In every application for such an order or judgment the applicant, in addition to anything else required or directed, shall file in duplicate with the Mining Court a clear and precise statement of the right or rights being applied for, of the land or property affected, and the owner or owners thereof so far as the same can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done; and for the purpose of preparing the same the Mining Court may authorize the applicant, his engineers and assistants, to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan, and plans and specifications may, by order be amended or altered or modified at any stage of the proceedings. The Judge may give directions as to the notice to be given to the parties interested, the time and manner of service, and the particulars to be furnished to such parties respectively.

Rights conferred to run with the lands.

(5) All rights and benefits, and burdens and obligations created under this section shall run with and be appurtenant and incident to the mine, quarry, mining lands, mining rights



and the other land, property, rights and interests in respect of which they are created.

(6) This section shall apply to and against patented, as well as unpatented land, rights and interests, whether owned or held by a corporation or company or a mining or other partnership or by a private person, but nothing contained therein or done thereunder shall, without the consent of the Minister, affect any Crown lands or any public interest.

Application  
to patented  
lands.

(7) The Judge for good cause shown and on such terms as may seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order or award made under the authority of this section.

Judge may  
change order  
or award.

(8) Rights granted under this section shall not be exercised until the time for appealing from the order or award granting the same has expired, or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order or award, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or wilfully neglects or refuses to obey any order or award made under this section shall be guilty of an offence against this Act, and, in addition to any other liability, shall incur a penalty not exceeding \$250, for each day such obstruction, neglect or refusal continues.

Rights  
not to be  
exercised  
until after  
expiration  
of time for  
appeal.

Offence  
and penalty.

R.S.O. 1927, c. 45, s. 185 (3-8).

#### REGULATIONS BY ORDER-IN-COUNCIL.

**182.**—(1) The Lieutenant-Governor in Council may make such rules and regulations as he may deem necessary for carrying out the provisions of this Act or to meet cases which may arise for which no provision is made in the Act, or when he deems the provision made to be ambiguous or doubtful, and may impose penalties not exceeding \$200 or not exceeding three months' imprisonment for the violation of any such rule or regulation.

Lieutenant-  
Governor in  
Council  
may make  
regulations  
to carry out  
provisions  
of Act.

(2) The Lieutenant-Governor in Council may make such regulations as he may deem necessary for the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands heretofore or hereafter sold or granted as mining lands or recorded as mining claims or locations, and for the opening, construction, maintenance and use of ditches, aqueducts or raceways through, over or

Regulations  
as to mak-  
ing roads,  
ditches, etc.

upon such claims, locations or land for the conveying and passage of water for mining purposes.

Regulations to be published in the *Ontario Gazette* and laid before Assembly.

(3) Rules and regulations made under the provisions of this section shall have force and effect only after the same shall have been published in the *Ontario Gazette*, and if made when the Assembly is sitting shall be laid before the Assembly during the then session, and if made at any other time shall be laid before the Assembly within the first fifteen days of the session next after the date thereof, and in case the Assembly at such session, or if the session does not continue for three weeks after such rules or regulations are laid before the Assembly, at the ensuing session, disapproves by resolution of such rule or regulation either wholly or in part, the rule or regulation, so far as the same is disapproved, shall have no effect from the time such resolution is passed.

Transmission of electricity in mining division and entering on lands without consent of owner.

**183.** With the consent of the Lieutenant-Governor in Council, and on such terms as he may see fit, any company authorized to supply electrical power or energy or compressed air or both may from time to time construct, maintain, and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, in and through any mining division, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as may be determined by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may from time to time revoke or vary the terms upon which any right conferred under the authority of this section may be exercised. R.S.O. 1927, c. 45, s. 187.

#### FEES.

Fees.

**184.** Fees shall be payable under this Act according to the tariff in the schedule hereto, and except as otherwise mentioned shall be for the use of the Province of Ontario. R.S.O. 1927, c. 45, s. 188.

#### ON CANCELLATION OF PATENT, LANDS AND RIGHTS TO REVEST IN CROWN.

Lands and mining rights to be withdrawn from exploration on repeal of patent or lease at instance of Crown.

**185.** Whenever a patent or lease of mining lands or mining rights is by proceedings in the Supreme Court at the instance of the Crown repealed or avoided, such lands and mining rights shall thereupon become and be withdrawn from exploration, discovery, staking out, lease, or sale, and every

discovery upon and claim to such lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease shall become and be absolutely null and void; and such lands, mining rights, mines and minerals shall be thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1927, c. 45, s. 189.

#### DEFAULT OF LESSEE UNDER MINES ACT, 1897.

**186.**—(1) If default is made by the lessee of a mining location leased under the authority of *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, *The Mining Act of Ontario*, being chapter 32 of the Revised Statutes of Ontario, 1914, *The Mining Act*, being chapter 45 of the Revised Statutes of Ontario, 1927, or any regulations providing for the leasing of mining lands, in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the full amount of rent within ninety days from the day when the same became payable, and in default thereof the lease shall be absolutely forfeited and void, any statute or law to the contrary notwithstanding, and all claims of the lessee or his assigns shall from and after such period forever cease and determine.

Forfeiture  
of leases  
under  
Rev. Stat.  
1897, c. 36;  
Rev. Stat.  
1914, c. 32;  
Rev. Stat.,  
1927, c. 45,  
and this Act.

(2) Where the Minister finds that no proof has been submitted that the expenditure for work upon the lands leased has been made, the Minister by registered letter directed to the lessee or his assignee at his last known address as recorded in the Department, may call upon the lessee or his assignee to submit such proof by way of affidavit or otherwise within any period not less than thirty days named in the letter, and if after the expiration of such period such proof has not been submitted the Minister may by notice in the *Ontario Gazette* declare such lease to be forfeited and void and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns shall be deemed to have ceased and determined and the land included in such lease shall be revested in the Crown freed and discharged from every claim. R.S.O. 1927, c. 45, s. 190.

Notice be-  
fore delara-  
tion of  
forfeitures.

**187.**—(1) Upon the failure of any one or more of several co-owners or co-lessees of a location to contribute his or their proportion of the expenditures or of the rental necessary to hold such location, the Judge, upon application of the co-owner or co-owners or co-lessee or co-lessees who have performed the labour or made the improvements or paid the rent as required by the lease of the mining lands, may order any such delinquent co-owner or co-lessee, or in the case of his death, his

Default  
by one of  
several co-  
owners or  
co-lessees.

personal representative, to make the necessary payment within six months from the date of such order or such further extension as the Judge may upon application order.

Vesting  
order of  
delinquent  
co-owner's  
interest.

(2) The order may be served in such a manner as the Judge may direct, and if at the expiration of the period fixed by the order, or such further time as may have been ordered by the Judge, it appears to the Judge that payment has not been made in accordance therewith, the Judge may make an order vesting the interest of the delinquent co-owner or co-lessee in the co-owners or co-lessees who have made the expenditures and paid the rent.

Death of  
delinquent.

(3) Where any such delinquent co-owner or co-lessee has died either before or after default in respect of his share, and no person has taken out administration of his estate, or has obtained probate of his will, any order made under this section may be directed to and served upon his heirs.

(4) In this section "co-owner or co-owners and co-lessee or co-lessees" shall include "incorporated company and shareholder or shareholders therein," and in the case of a company, the order shall be directed to the company. R.S.O. 1927, c. 45, s. 191.

#### MINERAL RIGHTS UNDER ROADS.

Sale or lease  
of mineral  
rights under  
roads.

**188.**—(1) The corporation of any county or township in that part of Ontario lying south of the French River, Lake Nipissing and the River Mattawan wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, if considered expedient so to do.

No sale  
or lease till  
after notice.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law.

Sale or  
lease not to  
interfere  
with public  
travel.

(3) The deed of conveyance or lease to the purchaser or lessee under the by-law, shall contain a proviso protecting the road for public travel and preventing any user of the granted rights which would interfere with public travel.

In northern  
part of  
Province.

(4) In the remaining portions of Ontario the mines, minerals and mining rights in, on or under all common and public highways and road allowances shall be and are hereby vested



in His Majesty, and may be sold, leased or otherwise disposed of under this Act. Where any mining location or mining lands adjoin a common and public highway or road allowance, and the mineral vein or deposit thereon extends into or under such highway or road allowance, the owner or owners thereof shall have the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to the provisions of this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance the said rights shall accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining his or their lands. This subsection shall not apply to highways on lands heretofore granted by the Crown under this Act, or in the grant whereof the mines and minerals were not reserved to the Crown.

(5) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any user of the granted rights which would interfere with public travel unless and until a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road. Patent or lease to protect public travel.

(6) Subsections 4 and 5 shall not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1927, c. 45, s. 192. Previously acquired rights preserved.

SCHEDULE A.

THE MINING ACT OF ONTARIO.

SCHEDULE OF FEES.

(Section 184.)

1. For a miner's license or renewal thereof for an individual. (See sections 25, 184.)	\$ 5 00
2. For an individual miner's license issued on or after 1st October in any year. (See sections 25, 184.)	3 00
3. Every renewal of a miner's license for a mining partnership where there are not more than two partners.	5 00
4. Every renewal of a miner's license for a mining partnership where there are more than two partners but not more than five partners.	10 00
5. Every renewal of a miner's license for a mining partnership where there are more than five partners.	20 00

6. The fee for a miner's license or renewal thereof payable by a duly incorporated company, or by a company licensed under *The Extra Provincial Corporations Act* to carry on business in Ontario, shall be based on the authorized capital, or in the case of a company shares of which have no par value shall be based on the actual value of the shares as shown by affidavit of the president or secretary of the company, or as may be determined by the Minister, according to the following scale, namely,—

(a) Where the capital so authorized, ascertained or determined is not over \$40,000.....	\$25 00
(b) Where the capital so authorized, ascertained or determined is over \$40,000 but does not exceed \$100,000.....	50 00
(c) Where the capital so authorized, ascertained or determined is over \$100,000 but does not exceed \$500,000.....	75 00
(d) Where the capital so authorized, ascertained or determined is over \$500,000 but does not exceed \$1,000,000.....	100 00
(e) Where the capital so authorized, ascertained or determined is over \$1,000,000 for each additional \$1,000,000 or fraction thereof.....	100 00

Provided that where the capital of a company authorized, ascertained or determined is over \$1,000,000, and it is by affidavit of the president or secretary thereof proved to the satisfaction of the Minister that any part of such capital is actually being used in some other business enterprise and not in mining business within Ontario such part may be deducted in fixing the fee payable as above set forth.

7. Whenever a miner's license for a mining partnership or for a company is issued on or after 1st October in any year, the fee shall be only one-half the amount above specified.
8. For recording each claim or boring permit staked out by a licensee on his own license. (See sections 57, 184.)..... 5 00
9. For recording each claim or boring permit staked out by a licensee on behalf of another licensee. (See sections 57, 184.)..... 10 00
10. For examining claim record book, per claim; fee to be for recorder's own use. (See sections 10, 184.)..... 10
11. For inspecting any document filed with a mining recorder; fee to be for recorder's own use. (See sections 11, 184.)... 10
12. For recording a dispute, per claim. (See sections 60, 184.)... 10 00
13. For certificate of record of claim. (See sections 62, 184.)... 1 00
14. For certificate of performance of working conditions. (See sections 78, 184.)..... 1 00
15. On filing appeal from recorder's decision. (See sections 127, 184.)..... 10 00
16. On filing appeal from Judge's decision. (See sections 144, 184) 20 00
17. For filing transfer or agreement to sell or transfer the whole or part of a mining claim, quarry claim, boring permit, power of attorney, revocation of power of attorney, copy of writ of execution, discharge of execution or any other instrument affecting any recorded claim, right or interest, per claim. (See sections 73, 107, 184.)..... 2 00

18. For a "Substituted Miner's License." (See sections 30, 184.)	\$1 00
19. For special renewal license under section 86, to save forfeiture, twice the prescribed license fee.	
20. For filing report of work under section 86, to save forfeiture, per claim.....	3 00
21. For certificate relieving from disqualification under section 55	20 00
22. For recording extension of time for performing working conditions or making application and payment for patent or lease, per claim. (See sections 80, 86, 184.).....	3 00
23. For recording an order or judgment of the Judge, or made on appeal from him, per claim. (See sections 77, 184.)..	1 00
24. For recording a certificate that interest in claim or other recorded right or interest is called in question, per claim. (See sections 77, 184.).....	10 00
25. For filing certificate of mining partnership or certified copy thereof. (See sections 111, 184.).....	1 00
26. For recording certificate of revocation of agent and appointment of new agent for mining partnership. (See sections 111, 184.).....	1 00
27. For recording transfer of share or shares in a mining partnership. (See sections 111, 184.).....	25
28. For copies or certified copies of any document, paper or record obtained from any officer, per folio.....	10
29. Additional fee for the recorder's own use with every application for a mining claim or boring permit, including swearing the affidavit, if sworn before the recorder, and for every other affidavit sworn before a recorder.....	25
30. For abstract or copy of entries in record book respecting any mining claim, per folio (100 words) 10 cents, minimum charge per claim.....	25
31. For filing an application for a mining claim under section 61	10 00

R.S.O. 1927, c. 45, Sched. "A"; 1931, c. 10, s. 19; 1933, c. 33, s. 6; 1934, c. 32, s. 4.

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## CHAPTER 48.

## The Iron Ore Bounty Act.

Interpre-  
tation.**1. In this Act,—**“Regu-  
lations.”

(a) “Regulations” shall mean regulations made under the provisions of this Act;

“Ton.”

(b) “Ton” shall mean 2,240 pounds avoirdupois;

“Treasurer.”

(c) “Treasurer” shall mean Treasurer of Ontario;

“Unit.”

(d) “Unit” shall mean one per centum. 1937, c. 34, s. 2.

Bounty to  
be paid.

**2.** The Treasurer may under the authority of the regulations pay out of the Consolidated Revenue Fund a bounty to any miner or producer of iron ore which shall be raised or mined in Ontario for a period of ten years from the 1st day of January, 1939, at the rate of two cents for every unit of metallic iron contained in each ton of such ore, in the manner following, that is to say:

(a) on low grade iron ore when the same has been concentrated, treated or beneficiated in Ontario and shipped or consigned to any iron blast furnace or other works for the production of pig iron or steel and for use in the same;

(b) on iron ore in the natural or unbeneficiated condition when shipped or consigned to any blast furnace or other works for the production of pig iron or steel in the Province of Ontario, and for use in the same. 1937, c. 34, s. 3.

Assay or  
analysis.

**3.** In ascertaining the contents of beneficiated or natural iron ore for the purpose of the bounty, the assay or analysis shall be made when the ore has been dried at 212 degrees Fahrenheit. 1937, c. 34, s. 4.

Application.

**4.** No bounty shall be paid to any miner or producer until application has been made to the Treasurer in the prescribed form. 1937, c. 34, s. 5.

Regulations.

**5.** The Lieutenant - Governor in Council may make regulations,—



- (a) prescribing the form of application for bounty and the information to be furnished upon every such application;
- (b) regulating the payment of moneys paid as bounty;
- (c) prescribing the maximum quantity of iron ore produced annually by any miner or producer upon which a bounty shall be paid, provided that such maximum quantity may vary in the case of different miners and producers;
- (d) generally for the better carrying out of the provisions of this Act. 1937, c. 34, s. 6.

**6.** The bounty herein provided shall cease and determine with the payment of any sum or sums which shall have been earned during the said period of ten years. 1937, c. 34, s. 7.

when  
bounty  
to cease.

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## CHAPTER 49.

## The Natural Gas Conservation Act.

Interpre-  
tation.**1.** In this Act,—“Commis-  
sioner.”

- (a) “Commissioner” shall mean Natural Gas Commissioner to be appointed under the provisions of this Act;

“Minister.”

- (b) “Minister” shall mean Minister of Mines;

“Natural  
gas produced  
in Ontario.”

- (c) “Natural gas produced in Ontario,” and “natural gas” shall include for the purposes of this Act a mixture of natural gas and artificial gas where such mixture contains by volume not more than fifty per centum of artificial gas;

“Referee.”

- (d) “Referee” shall mean Natural Gas Referee appointed under the provisions of this Act. R.S.O. 1927, c. 47, s. 1; 1929, c. 16, s. 2.

Powers and  
duties of  
Minister.

**2.** The Minister shall control and regulate the production, transmission, distribution, sale, disposal and consumption of all natural gas produced in Ontario, and for that purpose shall have and may exercise the powers and duties hereinafter set forth. R.S.O. 1927, c. 47, s. 2.

General  
powers of  
Minister as  
to orders and  
regulations.

**3.** The Minister shall make such orders or regulations and give such directions from time to time as he may deem proper for the due conservation of the supply of natural gas in Ontario and its transmission to and distribution in such localities and to such consumers, for such periods and at such times as, in the opinion of the Minister, may best serve the general public and particularly the users and consumers of natural gas for domestic purposes. R.S.O. 1927, c. 47, s. 3.

Orders and  
regulations.

**4.** The Minister may make orders or regulations for,—

- (a) the closing and cutting off of the supply of natural gas to any corporation, company or individual.

- (b) the construction, alteration or use of any works, machinery, plant, or appliance in and for the development, production, transmission, supply, distribution, measurement, or consumption of natural gas;
- (c) the cutting off of the supply to consumers generally, or to any consumer or consumers in any locality for such periods or at such times as he may deem proper;
- (d) the limiting or restricting or taking away any right conferred upon any person to the use and consumption of natural gas without charge, and for the payment of such compensation to such person as he may deem proper in respect of such limitation, restriction or taking away. R.S.O. 1927, c. 47, s. 4, cls. (a-d).
- (e) the allotting or supplying of natural gas to consumers or persons generally or to any consumer or consumers, person or persons in any locality for such periods or at such times as he may deem proper. R.S.O. 1927, c. 47, s. 4, cl. (e); 1929, c. 16, s. 3.
- (f) the closing down and stopping up of any natural gas well or any works for the production, transmission, distribution or supply of natural gas;
- (g) requiring returns to be made by any person producing, transmitting or distributing natural gas and for prescribing the form of any such return, the particulars to be included therein and the intervals at which such returns shall be made;
- (h) the appointment of such officers, agents, servants or workmen as may be necessary to carry out and enforce any order made by him under this Act;
- (i) compelling the installation of such appliances by consumers of natural gas, as he may deem requisite for preventing waste;
- (j) generally for the better carrying out of the objects and purposes of this Act. R.S.O. 1927, c. 47, s. 4, cls. (f-j).

5. Where the Minister is of the opinion that helium, argon or any other rare gas is found or is capable of production in commercial quantities in any part of the Province, the

Directions  
for conserva-  
tion of rare  
gases.

Minister may give such directions and may make such orders as he may deem proper compelling any owner, lessee or proprietor in such territory to close and keep closed for such time as the Minister may deem necessary any natural gas wells in such territory in such a manner that no gas may escape therefrom until such steps may have been taken as the Minister may deem necessary for the extraction and conservation of any such rare gas. R.S.O. 1927, c. 47, s. 5.

Office of  
Natural Gas  
Referee.

**6.** The Lieutenant-Governor in Council may appoint an officer to be known as the "Natural Gas Referee" who shall hold office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1927, c. 47, s. 6.

Jurisdiction  
of Referee.

**7.**—(1) The Referee may make orders for,—

(a) fixing rates to be charged for natural gas;

(b) compelling the owner, lessee or licensee of a pipeline to take gas produced by any person or corporation at such price, in such quantities, and on such terms as may be fixed by the Referee. R.S.O. 1927, c. 47, s. 7 (1).

Disallowance  
of rates.

(c) The disallowance of any rate charged for natural gas which he considers to be unjust or unreasonable or not conducive to the due conservation of the supply of natural gas in Ontario. 1931, c. 23, s. 4 (1).

Referee to  
approve new  
or altered  
rates.

(2) No new rates and no alteration in existing rates for natural gas shall be put into effect unless and until they have been approved by the Referee. 1931, c. 23, s. 4 (2).

Exclusion  
of certain  
losses in  
fixing rates.

(3) In fixing or approving rates for natural gas the Referee shall make no allowance for expenditures or losses caused by or resulting from the adoption of competitive methods which in the opinion of the Referee were unreasonable or improvident or were inconsistent with the due conservation of the supply of natural gas in Ontario.

Referee may  
proceed  
without  
application.

(4) The Referee may make any order under this section on a reference for such purpose by the Minister, without it being necessary that an application therefor be made by any person, or that any person be heard. 1931, c. 23, s. 4 (3).

Regulations  
as to pro-  
cedure.

**8.** The Referee, with the approval of the Lieutenant-Governor in Council, may make regulations prescribing the procedure to be followed upon applications to him. R.S.O. 1927, c. 47, s. 8.



**9.** The Minister and the Referee shall have regard to the provisions of any general or special Act or letters patent, or any agreement, franchise, bargain or arrangement whatsoever and by and between whomsoever made, but shall have power to depart from or vary such provisions where it is found upon enquiry that such action is necessary for conserving the supply or prolonging the service to consumers or furthering the search for or development of new sources of supply of natural gas. R.S.O. 1927, c. 47, s. 9.

How far regard to be had to existing provisions.

**10.**—(1) An order or decision of the Minister or of the Referee shall be a good and sufficient defence to any action or other proceeding brought or taken against any person producing, transmitting, distributing or selling natural gas in so far as the act or omission which is the subject of such action or other proceeding is in accordance with the order or direction of the Minister or Referee.

Obedience to orders of Minister or Referee to be a good defence.

(2) No order shall be made which shall have the effect of destroying or suspending or limiting the contractual rights of any person or persons, company or corporation without such notice as the Minister or Referee may deem proper, having first been given to such person or persons, company or corporation, and without their being given a reasonable opportunity to present their claims to the Minister or Referee, and any order made by the Minister or the Referee may be reconsidered and varied if it is deemed proper upon the application of any person who deems himself aggrieved thereby. R.S.O. 1927, c. 47, s. 10.

Contractual rights,—notice to persons claiming.

**11.** Nothing in sections 9 or 10 shall in any way prevent, affect or limit the Referee from making any order under clause *c* of subsection 1 of section 7. 1931, c. 23, s. 5 *part*.

Certain orders of Referee not affected or limited.

**12.** The Lieutenant-Governor in Council may appoint an officer to be known as the Natural Gas Commissioner. R.S.O. 1927, c. 47, s. 11.

Commissioner.

**13.** The Lieutenant-Governor in Council may make orders providing for the remuneration and expenses of the Referee, Commissioner, officers, agents, servants or workmen in the administration of this Act. R.S.O. 1927, c. 47, s. 12.

Remuneration and expenses.

**14.** The Minister may delegate to the Commissioner any of the powers and duties which are exercisable by or conferred upon him by this Act. R.S.O. 1927, c. 47, s. 13.

Delegation of powers of Minister.

**15.** No action or other proceeding shall lie against the Referee, Commissioner or any officer, agent, servant or work-

Actions not to lie for things done under Act.

man for anything done, or purporting to be done under, or in pursuance of the provisions of this Act. R.S.O. 1927, c. 47, s. 14.

Power as to  
lands and  
works.

**16.** In the exercise of the powers conferred by this Act the Minister or the Commissioner by himself, or the officers, agents, servants, or workmen of the Department of Mines, or any other person authorized by the Minister or Commissioner, may at any time,—

- (a) enter upon, pass over, take up or use any private property or the property of any municipal corporation or of the Crown, or any public place or highway;
- (b) construct, install, lay down and set up or remove, take up, take down, alter or repair any works, plant, machinery or appliance used in the development, production, transmission, supply, distribution or consumption of natural gas,

and where any person has refused or neglected to do anything prescribed by the order of the Minister or by the regulations, the Minister may cause such thing to be done, and the expenses so incurred shall, when certified by the Minister in writing, signed by him, be a debt due from such person to the Crown and shall be recoverable with costs by action in any court of competent jurisdiction. R.S.O. 1927, c. 47, s. 15.

Powers of  
Referee.

1921, c 17;

1922, c. 23.

**17.** The Referee may review, rescind, change, alter or vary any decision or order made by himself or by the Referee under *The Natural Gas Conservation Act, 1921*, or by the Board appointed under *The Natural Gas Conservation Act, 1922*. R.S.O. 1927, c. 47, s. 16.

Appeal  
from Referee  
to Court of  
Appeal.

**18.** An appeal shall lie from the decision of the Referee to the Court of Appeal upon any question of law or fact. R.S.O. 1927, c. 47, s. 17.

Finality of  
decision of  
Referee.

**19.** Save as herein provided, every decision or order of the Minister or of the Referee shall be final and shall not be questioned or reviewed in any court. R.S.O. 1927, c. 47, s. 18.

Enforcement  
of orders,  
etc.

**20.** Any order or regulation made or direction given by the Minister and any order made by the Referee under this Act may be made a judgment or order of the Supreme Court enforceable in the same manner as a judgment or order of such court to the like effect. 1931, c. 23, s. 5, *part*.

Costs.

**21.**—(1) The costs of and incidental to any proceeding before the Referee shall be in his discretion and may be fixed in any case at a sum certain or may be taxed.

(2) The Referee may order by whom and to whom any costs are to be paid and by whom the same are to be taxed and allowed. Order for payment of costs.

(3) The Referee may prescribe a scale under which such costs shall be taxed. R.S.O. 1927, c. 47, s. 19. Scale of costs.

**22.**—(1) Every person who,—

Offences and penalties.

- (a) refuses or neglects to obey any order or direction made or purporting to be made under the authority of this Act after notice of such order or direction; or
- (b) hinders, delays or obstructs any person in carrying out the provisions of this Act; or
- (c) wastes or causes to be wasted any natural gas; or
- (d) tampers or interferes with any meter, stop-cock, cut-off or any other matter or thing placed or used or installed by or under the authority of this Act,

shall be guilty of an offence and shall incur a penalty not exceeding \$2,000 and not less than \$10, and shall in default of the payment thereof be imprisoned for a period not exceeding six months. R.S.O. 1927, c. 47, s. 20.

(2) Every person who supplies gas for industrial purposes without a permit so to do issued under the regulations, or supplies an amount of gas in excess of that permitted by any such permit held by him, shall be guilty of an offence and liable to a penalty of not less than \$100 and not more than \$2,000 for every month or portion of a month during which such supply continues, or to imprisonment for a period not exceeding six months. 1937, c. 72, s. 41. Penalty for supplying gas without a permit.

**23.** Works for the production, transmission and supply of natural gas shall not be deemed to be public utilities so as to give the Ontario Municipal Board any jurisdiction respecting the same. R.S.O. 1927, c. 47, s. 21. Jurisdiction of Municipal Board excluded.

**24.** In any matter arising under this Act, the Referee or Commissioner or any commissioner authorized to administer an oath may take an affidavit, or statutory declaration in any part of Ontario. R.S.O. 1927, c. 47, s. 22. Power to administer oaths.

**25.** The Referee may hear any application at any place in Ontario that he may appoint and shall have the same power to compel the attendance of witnesses and to compel Powers of Referee as to hearing.

them to give evidence and produce documents as is vested in the Supreme Court in civil cases. R.S.O. 1927, c. 47, s. 23.

Application  
of Act to  
certain  
contracts.

**26.**—(1) Nothing in this Act shall affect any existing contract or agreement between the owner of the land on which a producing gas well is situate and the person operating the same; provided nevertheless, that no such owner of land shall at any time consume more than a reasonable quantity of gas under the right given to him by any such contract or agreement, and the Referee at the request of either party or any other person interested may fix and determine from time to time what is a reasonable quantity in any case.

Penalty for  
failure to  
comply with  
order.

(2) After notice in writing naming such quantity has been given to any owner or left at his usual place of abode, any refusal or neglect to comply with the terms thereof shall be an offence punishable in the manner provided by section 22. R.S.O. 1927, c. 47, s. 24.

Act not to  
apply to  
owner using  
gas for his  
own  
purposes.

**27.** This Act shall not apply to any person who on the 13th day of June, 1922, owned and transmitted through his own pipe lines a supply of natural gas for the purposes of his own industry. R.S.O. 1927, c. 47, s. 25.

Order of  
Minister  
pending  
determina-  
tion of  
rights.

**28.**—(1) In the event of a dispute between a company and a municipal corporation or person with respect to any matter or thing arising out of any letters patent, deed, grant, contract, franchise, lease, agreement, bargain or arrangement whatsoever, the Minister, on the application of any party, may make an order prohibiting the company from cutting off, diminishing or otherwise interfering with the supply of natural gas to any or all of the inhabitants of a municipality, or to any person, pending the final determination of the rights in dispute between the parties in a court of competent jurisdiction.

Penalty.

(2) Any company which cuts off, diminishes or otherwise interferes with the supply of natural gas in contravention of any order made by the Minister shall be guilty of an offence punishable in the manner provided by section 22. R.S.O. 1927, c. 47, s. 26; 1929, c. 16, s. 4.

Licenses.

**29.**—(1) Licenses may be issued by the Minister upon such terms, and subject to such conditions, and upon the payment of such fees as the Minister may prescribe, to persons for boring, prospecting for, transmitting or distributing



natural gas, and no person shall bore or prospect for, produce, transmit or distribute natural gas in Ontario, who is not the holder of a license from the Minister permitting him so to do.

(2) Any person violating the provisions of this section shall <sup>Penalty.</sup> be guilty of an offence punishable as provided by section 22. R.S.O. 1927, c. 47, s. 27.

(NOTE.—*See also requirements of Well Drillers Act as to licenses. Rev. Stat., c. 50.*)

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## CHAPTER 50.

## The Well Drillers Act.

Interpre-  
tation.

## 1. In this Act,—

“Commis-  
sioner.”  
Rev. Stat.,  
c. 49.

- (a) “Commissioner” shall mean Natural Gas Commissioner, appointed under *The Natural Gas Conservation Act*, or this Act;

“Inspector.”  
Rev. Stat.,  
c. 49.

- (b) “Inspector” shall mean inspector appointed under *The Natural Gas Conservation Act*, or this Act;

“Minister.”

- (c) “Minister” shall mean Minister of Mines;

“Owner.”

- (d) “Owner” shall include lessee;

“Regula-  
tions.”

- (e) “Regulations” shall mean regulations made under the authority of this Act;

“Well.”

- (f) “Well” shall mean and include any well bored for oil, natural gas or water. R.S.O. 1927, c. 48, s. 1; 1935, c. 66, s. 23 (1).

Regulations.

## 2.—(1) The Minister may make regulations,—

- (a) requiring dry and abandoned wells to be plugged and protected;
- (b) prescribing the method and requirements to be observed in plugging and protecting any well;
- (c) respecting the method of boring wells and for the proper protection of wells during boring operations;
- (d) for the issue of licenses to persons boring wells and fixing the fee to be paid for any such license, also for suspension or cancellation of the same;
- (e) requiring every person boring a well to furnish such reports and returns, geological and other information and specimens as may be prescribed by the regulations.

(2) Any regulation made by the Minister under the authority of subsection 1 may be general or particular in its application territorially or otherwise. R.S.O. 1927, c. 48, s. 2.

Regulations may be general or particular.

3. The Minister may at all times give such directions in writing as he may deem necessary respecting the boring, protecting, plugging and closing of any well. R.S.O. 1927, c. 48, s. 3.

Directions of Minister as to boring, etc.

4. A person shall not bore or undertake to bore a well unless he is the holder of a license from the Minister so to do. R.S.O. 1927, c. 48, s. 4.

License required to bore.

5. The Lieutenant-Governor in Council may appoint a commissioner, and an inspector or inspectors, for the purpose of carrying out the provisions of this Act and any direction of the Minister made hereunder, and until any such appointment is made the Natural Gas Commissioner appointed under *The Natural Gas Conservation Act*, and the inspector appointed under the said Act shall be commissioner and inspector respectively for carrying out the provisions of this Act. R.S.O. 1927, c. 48, s. 5.

Appointment of commissioner and inspectors.

Rev. Stat., c. 49.

6. An abandoned well shall not be plugged until the owner or other person in possession or control thereof shall have given the commissioner at least two weeks' notice by registered mail of the date on which the plugging is to be done, so as to enable the commissioner or inspector to be present and approve the method of plugging, and in the case of a gas well he shall, at least two weeks immediately before such date, close in the same in such a manner that no gas may escape. R.S.O. 1927, c. 48, s. 6.

Notice.

7. Any person in possession or control as owner, agent, manager or otherwise of any well in which natural gas has been found, shall, unless such gas is utilized within two weeks of such discovery, confine the same in such well until such time as the gas is utilized; but this section shall not apply to any well which, in the opinion of the Minister, is not producing gas in marketable quantities and is being operated as an oil well. R.S.O. 1927, c. 48, s. 7.

Duties of owner where natural gas not utilized within two weeks after discovery.

8.—(1) Whenever any well is abandoned, it shall be the duty of the owner or the person in possession or control of such well, and of every person engaged or employed in removing the casing from or in plugging such well or in any work constituting an abandonment of such well, to plug or plug and cement the same in such manner as to keep all water in its place of origin and to prevent any fresh or salt water

Abandonment of well.

or other injurious substances from entering any oil or gas bearing rock, either from above or below such rock as may be further provided by regulations.

When well shall be deemed abandoned.

(2) Subject to the provisions of section 7 every well, which in the opinion of the inspector is not in operation, shall be deemed to be an abandoned well within the meaning of this Act.

Appeal to Minister.

(3) The owner or person in possession or control of any well may, within ten days after receiving notice from the inspector that in his opinion the well is abandoned, appeal to the Minister against the decision of the inspector.

Notice of appeal.

(4) The owner or person appealing shall give to the inspector notice in writing of the appeal.

Decision of Minister to be final.

(5) The decision of the Minister shall be final and shall not be subject to appeal. R.S.O. 1927, c. 48, s. 8.

Failure of owner to comply with provisions of section 8.

**9.** Whenever the owner or person in possession of or having the control of any well in which gas has been found fails to comply with the provisions of section 8 within the time therein mentioned, the inspector appointed, as hereinafter provided, shall notify such person in writing to cause such gas to be so confined; and in the case of the failure of such person to comply with such notice within ten days of the date thereof, the inspector may enter upon the land upon which such well is situate and, either by himself, his agents or his employees, shall cause such gas to be shut in and confined in such well. R.S.O. 1927, c. 48, s. 9.

Where property injuriously affected by failure to plug abandoned well.

**10.—(1)** Whenever any person notifies the inspector in writing that any property in which he is interested, situate in the vicinity of any such abandoned well, is injuriously affected by the failure to plug any such well as provided in section 8, the inspector shall examine such abandoned well and ascertain whether it has been properly plugged according to the provisions of this Act and the regulations, and in case the inspector determines that such well has not been properly plugged he shall serve a notice on the owner thereof or upon any person having the control thereof, or upon any person who was engaged or employed in the work of removing the casing from or in plugging such well, or in any work which constituted an abandonment of such well, requiring that such well be plugged within ten days from the receipt of the notice and specifying the method to be followed in the plugging thereof, and unless within the ten days such well is plugged according to the directions contained in the notice, the in-



spector, by himself, his agents or employees may plug such well or cause the same to be plugged according to the provisions of this Act.

(2) Where the inspector is of the opinion that the casing in any well, whether the well is abandoned or not, is admitting water to such an extent as to injure adjoining property, he may order the owner or person in possession or control to remove the pump or other obstruction therein, if any, so as to enable him to test the well, and the inspector may order the owner or other person to stop the leak if there be one, within the time named by the inspector. Inspection of well.

(3) The inspector may inspect any main, pipe or duct through which natural gas may be flowing, drawn or pumped or which is intended to be used for any such purpose, and may give notice in writing to the person or owner of the main, pipe or duct to remedy any defect found therein which permits or is likely to permit of the escape of gas. Inspection of main, pipe or duct.

(4) In case of default in compliance with such order within ten days after service of the same, the inspector may without further notice make such necessary alteration or repairs, or proceed to plug the well as provided in subsection 1. Where default is made.

(5) The expenses occasioned by or incidental to such examination and plugging may be recovered in the manner provided by section 11. Expenses, how recovered.

(6) The owner or person in possession or control of a well, gas main, pipe or duct, may, before the expiry of the time fixed by the inspector appeal from the order of the inspector as provided in subsection 3 of section 8, and the decision of the Minister shall be final and shall not be subject to appeal. Appeal from order to Minister.  
R.S.O. 1927, c. 48, s. 10.

**11.** The expenses incidental to or occasioned by the examination and repair of natural gas lines or plugging of any abandoned well, or by the confining or shutting in of the gas from any well by the inspector under the provisions of this Act, shall be paid to the inspector within ten days after notice in writing of the completion of the work and the amount of such expense has been given to the owner or other person having control of any such well, and upon failure to pay the same within such time the inspector shall give written notice of such failure to the clerk of the municipality in which such well is situate or such defect exists and of the amount payable, and the council of such municipality shall thereupon pay to the inspector such expenses and the same shall be added to Expenses of examination and repair,—how paid.

the taxes upon any property of the owner of such well whether such well is situate on such property or not, unless the mineral rights in the land upon which such well is situate have been severed or reserved from such land, in which case such expenses shall be added to any taxes chargeable against the reserved mineral rights in the land upon which the well is situate or against any other property of the owner of such reserved mineral rights, and such expenses shall be entered on the collector's roll and be levied and collected in the same manner as other taxes, provided that where the municipality shall have paid or become liable for the expense of plugging an abandoned well, the corporation by its officers, servants or workmen may take possession of and remove and sell by public auction or private sale all casing, tubing, pumps and other equipment recovered from or connected with such well but any surplus proceeds of such sale over and above such expenses and costs of sale shall be repaid to the owner. R.S.O. 1927, c. 48, s. 11.

Inspector  
may require  
statutory  
declaration  
to be  
furnished.

**12.**—(1) The inspector may by notice in writing delivered to any person who has charge or control of the removal of the casing or plugging or abandonment of any well, or who was engaged or employed in removing the casing from or in plugging any such well or in any work constituting an abandonment of such well, require such person within ten days from the receipt of such notice to furnish a statutory declaration respecting such abandoned well to the inspector.

Declaration,  
what to  
contain.

(2) Such person shall within the ten days furnish such declaration to the inspector either by delivering the same into his hands or by mailing by registered post to his address, and the declaration shall identify such well and shall set out in detail the precise manner of and the materials and tools used in plugging the same. R.S.O. 1927, c. 48, s. 12.

Notice  
to owner  
where pipe  
defective.

**13.** Where the inspector finds that a line of pipe conveying gas from one locality to another is constructed or laid down in such a manner, or is so out of repair or otherwise defective, as to permit or be likely to permit of the escape of gas in considerable quantities, he may give to the owner or person in control of the line of pipe notice in writing to make the alteration or repairs prescribed in the notice within a stated time, and upon default in compliance with the terms of the notice, the Lieutenant-Governor in Council upon the recommendation of the Minister may suspend or revoke and annul any charter of incorporation or other authority under which the business of conveying gas in the line of pipe is carried on. R.S.O. 1927, c. 48, s. 13.

**14.**—(1) The inspector shall have authority to engage such agents or employees as he may deem necessary from time to time to carry out the requirements of this Act, and shall also be empowered from time to time and at all times by himself, his servants or employees to enter upon any land or property upon which any wells are being or have been drilled and to make such examinations, inspections, repairs and inquiries as may be necessary for carrying into effect the provisions of this Act.

Right of  
inspector  
to engage  
agents and  
employees.

(2) No action or other proceedings shall lie against any such commissioner or inspector, his agents or employees for any matter or thing done by them under the provisions of this Act. R.S.O. 1927, c. 48, s. 14.

No action to  
lie against  
commis-  
sioner or  
inspector.

**15.**—(1) Every person who contravenes any of the provisions of sections 7, 8 and 13 or of any of the regulations made under this Act, or who neglects or refuses to carry out any order or direction lawfully given or made under the authority of this Act or the regulations, in addition to any costs and expenses to which he may be liable under the provisions of section 11, shall on summary conviction incur a penalty of not less than \$10 nor more than \$100.

Liability of  
persons for  
contraven-  
tion of  
provisions of  
certain  
sections.

(2) The prosecution of any person under subsection 1 shall not affect the liability of the defendant in any action for damages or otherwise for injuries arising out of any such offence. R.S.O. 1927, c. 48, s. 15.

Liability of  
defendant.

**16.** Sections 6, 7, 8, 9, 10, 11, 12 and 13 shall not apply to wells drilled for fresh water for domestic or farm purposes or which do not penetrate the solid rock. 1935, c. 66, s. 23 (2).

Certain  
sections not  
to apply to  
wells drilled  
for fresh  
water.

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## CHAPTER 51.

## The Damage by Fumes Arbitration Act.

Arbitrator,—  
appointment  
of.

1. The Lieutenant-Governor in Council may from time to time appoint an arbitrator for the purposes of this Act and may limit his jurisdiction either territorially or as to subject matter, and may extend such limited jurisdiction or diminish it from time to time. R.S.O. 1927, c. 49, s. 1.

Where  
crops, etc.,  
damaged by  
sulphur  
fumes.

2.—(1) Where damage is occasioned by sulphur fumes arising from the smelting or roasting of nickle-copper ore, to crops, trees or other vegetation directly or indirectly, such damage may be determined by the arbitrator so appointed who shall have exclusive jurisdiction to determine the amount of such damage and to make an award.

Effect of  
remedies  
herein  
provided.

(2) The remedies herein provided shall be in lieu of all remedies whether in law or in equity to which any person would be entitled but for the passing of this Act and no action shall be taken by way of injunction or otherwise. R.S.O. 1927, c. 49, s. 2.

Notice of  
damage.

3.—(1) Notice of the damage shall be given by the person aggrieved to the person, company or corporation offending and to the arbitrator within seven days of such damage occurring, and in the absence of such notice the arbitrator may disallow any claim for compensation.

Investiga-  
tion.

(2) Upon receipt of such notice it shall be the duty of the arbitrator to make an investigation and keep a record of the facts as he finds them in connection with each complaint.

Assessment  
of damage  
by  
arbitrator.

(3) At any time before the 1st day of November of the year in which the damage is alleged to have occurred, the person aggrieved shall have the right to appeal to the arbitrator to determine compensation and the arbitrator shall thereafter as soon as may be convenient, notify both parties, hear such evidence as may be available, assess the damage and make the award in writing.

Agreements  
of settle-  
ment.

(4) Nothing in this Act shall prevent the person aggrieved and the person, company or corporation offending from arriv-



ing at a mutually satisfactory settlement apart from the arbitrator. R.S.O. 1927, c. 49, s. 3.

4. The award of the arbitrator shall be final and binding upon the parties and not subject to appeal or to be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or other process or proceeding in any court and on being filed in the office of the clerk of the county or district court such award shall, for the purpose of issuing execution thereon, have the same force and effect as a judgment of the said court. R.S.O. 1927, c. 49, s. 4.

5.—(1) A sum not exceeding \$5,000 in any year to cover the expenses of administering this Act, including the salary or other remuneration of the arbitrator, shall be payable annually to the Province by the company or companies smelting or roasting nickel-copper ore.

(2) The arbitrator at the close of each calendar year, shall assess and apportion the amount for which each company smelting or roasting nickel-copper ore is liable under subsection 1, among such companies and the amount assessed against each company shall be payable to the Treasurer of Ontario within fifteen days after the mailing of a registered letter demanding payment thereof to the last known address of the company, but every assessment so made shall be subject to the approval of the Minister of Mines. R.S.O. 1927, c. 49, s. 5.

6. The Lieutenant-Governor in Council shall have power from time to time to make regulations generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 49, s. 6.

## CHAPTER 52.

## The Unwrought Metal Sales Act.

Interpre-  
tation.

## 1. In this Act,—

“License.”

(a) “License” shall mean license issued by the Minister under the authority of this Act;

“License holder.”

(b) “License holder” shall mean the holder of a license issued under the authority of this Act;

“Minister.”

(c) “Minister” shall mean the Minister of Mines;

“Pre-  
scribed.”

(d) “Prescribed” shall mean prescribed in this Act and by the regulations made under this Act;

“Regula-  
tions.”

(e) “Regulations” shall mean regulations made under the authority of this Act;

“Metal.”

(f) “Metal” shall mean gold, silver, platinum, palladium and any other precious or rare metal or metals;

“Unwrought  
metal.”

(g) “Unwrought metal” shall include metal as defined in this Act, whether or not in ore, quartz, rock, sand, gravel or earth or in nuggets or “metallics” so-called, and generally metal in any form whether refined or unrefined and whether or not made up into ingots, bricks, bars, rods or otherwise and whether or not associated with mercury, zinc, aluminium or any other reducing or precipitating agent or other substance, and the by-products obtained in the smelting, refining or other treatment of metal or metal-bearing substances, and generally metal in any form whatever not made up and manufactured into any finished article or thing for use, ornament, or other purpose. R.S.O. 1927, c. 50, s. 1.

Licenses.

2. Subject to the regulations the Minister may issue licenses to such persons as may comply with the prescribed conditions to buy, sell, deal in, receive or dispose of by way of barter, pledge or otherwise, unwrought metal. R.S.O. 1927, c. 50, s. 2.

3. Every person who not being a license holder buys, sells, deals in, receives or disposes of by way of barter, pledge or otherwise, either as principal or agent, any unwrought metal shall be guilty of an offence against this Act and shall, on summary conviction thereof, in the case of a first offence, incur a penalty not exceeding \$500 and in addition thereto may be imprisoned for a period not exceeding one year, and for a second or any subsequent offence, shall incur a penalty not exceeding \$1,000 and shall be imprisoned for a period of one year. R.S.O. 1927, c. 50, s. 3.

Sale by  
unlicensed  
persons  
prohibited.

4. Every person who knowingly purchases or in any other manner acquires possession of unwrought metal from any person other than a license holder shall be guilty of an offence and shall on summary conviction thereof incur the penalties provided in section 3. R.S.O. 1927, c. 50, s. 4.

Purchase  
from un-  
licensed  
person  
prohibited.

5. The Lieutenant-Governor in Council may make regulations,—

Regulations.

- (a) prescribing the form of license and the dates on which and the periods for which the licenses shall be issued;
- (b) for the cancelling of licenses for any breach of the provisions of this Act or the regulations;
- (c) prescribing the fees payable for licenses and the conditions to be complied with by the license holders;
- (d) for the keeping of books and records by license holders showing the particulars as to the sale and disposal of unwrought metal;
- (e) for the making up and filing of returns by license holders containing such particulars as may be deemed necessary;
- (f) for prohibiting the carrying on of a business by a license holder in any particular locality or for any particular period or during any stated hours of the day;
- (g) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 50, s. 5.

## Exceptions.

**6.** This Act shall not apply to the Department of Mines, the Provincial Assay Office at Toronto, or the Temiskaming Testing Laboratories at Cobalt, carried on and operated by the said Department, and the Minister may in writing under his hand and seal of office exempt any mining company or the proprietor or operator of any mine or any museum, university, college or other educational institution from the provisions of this Act, and may at any time cancel and revoke such exemption. R.S.O. 1927, c. 50, s. 6.

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## CHAPTER 53.

## The Fuel Supply Act.

## 1. In this Act,—

Interpretation.

- (a) "Controller" shall mean the Fuel Controller, appointed under this Act, and shall include any commission or other body to which the duties and powers of Fuel Controller may be assigned; "Controller."

- (b) "Minister" shall mean Minister of Mines;

"Minister."

- (c) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council or by the Fuel Controller, with the approval of the Lieutenant Governor in Council, under the authority of this Act, and shall include an order of the Controller. "Regulations."  
R.S.O. 1927, c. 51, s. 1.

2. The Lieutenant-Governor in Council may appoint an officer, or may issue a commission to two or more persons for the purpose of exercising the powers and carrying out the objects hereinafter set forth, and in the case of the appointment of such officer, he may be designated as the Fuel Controller for Ontario, and in the case of the appointment of a commission, the commission may be designated as The Fuel Control Commission of Ontario. R.S.O. 1927, c. 51, s. 2.

3. The Lieutenant-Governor in Council may appoint or employ such expert and other assistance for the Controller as may be deemed necessary or expedient. R.S.O. 1927, c. 51, s. 3.

4. The salaries and expenses of the Controller and of his officers, clerks and servants, and the expenses payable for providing such assistance, and generally all costs, charges and expenses incurred and payable in respect of the carrying out of the provisions of this Act, shall be chargeable to and shall be paid out of such sums as may be provided by the Legislature for investigating the fuel question, and the purchase, manufacture and handling of wood fuel, and for the manufacture and handling of peat fuel. R.S.O. 1927, c. 51, s. 4.

Powers and  
duties of  
Controller.

5. The Controller, subject to the approval of the Lieutenant-Governor in Council, may,—

- (a) investigate and report to the Minister upon any source of fuel supply and the practicability of securing wood, peat or other fuel for use by the inhabitants of the province, or any locality therein, and the most economical and expeditious mode of utilizing such fuel supply, and of getting out, preparing, transporting and distributing the same;
- (b) make orders from time to time regulating the quantity of fuel which may be used, held or stored by any person, and directing that any amount in excess of such quantity shall be taken over from such person upon such terms as the Minister may approve, and sold, distributed and otherwise disposed of;
- (c) provide penalties for the contravention of any order so made;
- (d) make orders fixing the price at which wood, peat or other fuel may be sold or disposed of, having regard to the cost of getting out, distributing and marketing the same;
- (e) conduct with, or direct for the Minister, experimental work upon any material which may be deemed to be capable of furnishing suitable fuel;
- (f) make regulations respecting the use of fuel, and restricting the same as to seasons and hours of use, and the mode in which the same may be used;
- (g) take such measures as the Minister may direct for the enforcement of any regulations made by the Fuel Controller for the Dominion of Canada, as to the use, transportation, distribution and sale of fuel, and to co-operate with and assist the Fuel Controller of Canada in that respect. R.S.O. 1927, c. 51, s. 5.

Powers of  
Minister.

6. The Minister, with the approval of the Lieutenant-Governor in Council, may,—

- (a) purchase, lease or acquire, without the consent of the owner thereof, and enter upon, take and use such real and personal property as he may deem

necessary for the purpose of acquiring peat lands or wood lands for experimental purposes, or for the purpose of developing or cutting and getting out the wood, peat or other fuel;

- (b) purchase, erect, set up and operate all such buildings, machinery, plant, appliances and every other matter or thing which he may deem necessary for the purpose of preparing wood or peat or any other substance for fuel purposes;
- (c) enter into contracts or agreements with the owner of any lands for the purpose of procuring a supply of wood or peat therefrom;
- (d) enter into contracts and arrangements providing for the transportation, distribution, marketing and sale of the product of any works acquired by him, or of wood or peat fuel purchased or supplied under contract;
- (e) arrange with the Government of the Dominion of Canada or the Fuel Controller of Canada for co-operation in or with any such operations or works and for sharing the cost of the same on such conditions and terms as may be agreed upon;
- (f) take over, with or without the consent of the owner thereof, any existing works for the production of wood or peat and operate the same, and transport, distribute, market and sell the product thereof. R.S.O. 1927, c. 51, s. 6.

7. Whenever the Minister exercises any of the compulsory powers conferred by section 6, compensation shall be paid to the owner or any other person interested, and such compulsory powers may be exercised, and compensation shall be paid and determined in the manner provided by *The Public Works Act*, and the provisions of the said Act shall *mutatis mutandis* apply. R.S.O. 1927, c. 51, s. 7.

Compulsory powers to be exercised under Public Works Act. Rev. Stat., c. 54.

8. The Lieutenant-Governor in Council may make regulations not inconsistent with the provisions of this Act,— Regulations.

- (a) prescribing the duties of the Controller and conferring upon him such powers as may be deemed proper for carrying out the objects of this Act;

- (b) imposing penalties for the violation of any regulation or order made by the Controller or by the Lieutenant-Governor in Council;
- (c) fixing the salaries, scale of remuneration and expenses to be paid to officers and other persons employed under this Act;
- (d) granting to the Minister such powers, in addition to those expressly conferred by this Act, as may be deemed necessary in order to provide a sufficient supply of fuel to the inhabitants of Ontario or of any locality therein;
- (e) offering rewards for the discovery of new sources of fuel supply or of new methods in the treatment of any substance which may be used as fuel.  
R.S.O. 1927, c. 51, s. 8.

Limits of  
application  
of Act.

**9.** This Act shall not include, or apply to oil, natural or artificial gas or electricity. R.S.O. 1927, c. 51, s. 9.

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### 3. PUBLIC WORKS.

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#### CHAPTER 54.

#### The Public Works Act.

##### 1. In this Act,—

Interpreta-  
tion.

- (a) "Conveyance" shall include a surrender to the Crown; "Convey-  
ance."
- (b) "Department" shall mean Department of Public Works; "Depart-  
ment."
- (c) "Judge" shall mean judge of the county or district court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under the provisions of this Act is situate, or a judge of the High Court; "Judge."
- (d) "Land" shall include any estate, term, easement, right or interest in, to, over or affecting land; "Land."
- (e) "Lease" shall include an agreement for a lease; "Lease."
- (f) "Minister" shall mean Minister of Public Works and Highways; "Minister."
- (g) "Owner" shall include a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested; "Owner."
- (h) "Public work" shall mean and include the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the "Public  
work."

telegraph lines, government railways, canals, locks, drydocks, and all other property belonging to Ontario, and also all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by this Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;

"Registry office."

- (*i*) "Registry office" shall include land titles office and shall mean the registry or land titles office for the registry division or locality within which the land is situate;

"Superintendent."

- (*j*) "Superintendent" shall mean the superintendent of the public work of which he has, under the Minister, the charge and direction;

"Surrender."

- (*k*) "Surrender" shall include a conveyance to His Majesty, or to the Minister, or to any officer of the Department, in trust for or to the use of His Majesty. R.S.O. 1927, c. 52, s. 1.

Department and Minister.

**2.** There shall be a Department of Public Works, over which the Minister shall preside. R.S.O. 1927, c. 52, s. 2.

Deputy Minister.

**3.** A Deputy Minister of Public Works shall be appointed by the Lieutenant-Governor in Council who shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1927, c. 52, s. 3.

Other officers and servants.

**4.** The Lieutenant-Governor in Council may also appoint an architect, an engineer, a secretary, a law clerk, an accountant, and as many other officers and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control, and all such officers and servants shall have such powers and perform such duties as may be assigned to them by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1927, c. 52, s. 4.

Powers and duties of the Minister.

**5.—(1)** The Minister shall have the management of the Department, shall oversee and direct the officers and servants thereof and may suspend from duty any officer or servant.

(2) The Minister may enter into any contract or agree-  
ment that he may deem advisable in carrying out the pro-  
visions of this Act; but no contract or agreement shall be  
binding upon the Crown or be deemed to be that act of the  
Minister unless signed by him and sealed with the seal of  
the Department.

Require-  
ments as to  
contracts.

(3) The Minister shall, by public advertisement, invite  
tenders for the construction or repair of all public works,  
except in cases of pressing emergency, where delay would  
be injurious to the public interest, or where from the nature  
of the work, it can be more expeditiously or economically  
executed by the officers and servants of the Department, or  
by day labour.

Tenders for  
public works.  
Exception.

(4) Where a public work is being carried out by contract,  
the Minister shall take reasonable care that security be given  
to and in the name of His Majesty for the due performance  
of the work within the amount and time specified for its  
completion, and in all cases where the Minister deems it inex-  
pedient to let the work to the lowest bidder, he shall report  
the same and obtain the authority of the Lieutenant-Gover-  
nor in Council before passing by a lower tender; but no sum  
of money shall be paid to a contractor, nor shall any work  
be commenced on any contract until the contract has been  
signed by all the parties thereto, nor until the requisite secu-  
rity has been given.

Security  
from  
contractors.

Provision  
when lowest  
tender is not  
accepted.

(5) The Minister may require any account sent in by any  
person employed by the Department to be attested on oath.

Attestation  
of accounts.

(6) The Minister may send for and examine on oath all  
such persons as he may deem necessary touching any matter  
upon which his action is or may be required, and may cause  
such persons to bring with them such papers, plans, books,  
documents and things as it may be necessary to examine  
with reference to such matter, and may pay such persons a  
reasonable compensation for their time and disbursements,  
and every such person shall attend at the summons of the  
Minister after due notice, and in default shall incur a pen-  
alty not exceeding \$20 recoverable under *The Summary*  
*Convictions Act*.

Power to  
hold inquiry  
on oath.

Rev. Stat.,  
c. 136.

(7) The Minister shall submit to the Lieutenant-Governor  
an annual report of all the works under the control of the  
Department, showing the state of each work, the amounts  
expended in respect thereof, and such further information  
as may be requisite to enable the Assembly to judge of the  
work of the Department.

Annual  
report of  
Minister.

Presentation. (8) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next session. R.S.O. 1927, c. 52, s. 5.

Payments under this Act.

6. Where any payment is to be made by the Minister under the authority of this Act it shall be made out of such money as may be appropriated by this Legislature for that purpose, and not otherwise, and the Minister shall not be personally liable therefor, or for any proceedings had or taken by virtue of this Act. R.S.O. 1927, c. 52, s. 6.

What property, etc., to be under control of Department.

7. All public works constructed or completed at the expense of Ontario, all land, streams, watercourses and property, real or personal, acquired for the use of public works, and

- (a) all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;
- (b) all slides, dams, piers, booms and other works for facilitating the transmission of timber;
- (c) all hydraulic powers created by the construction of any public works;
- (d) all roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired, constructed, repaired, equipped, maintained or improved at the expense of Ontario,

not under the control of the Government of Canada, shall unless otherwise provided by law be and remain vested in His Majesty and under the control of the Department. R.S.O. 1927, c. 52, s. 7.

Power to sell.

8. Any property, real or personal, no longer required for the use of any public work, may be sold, leased or disposed of under the authority of the Lieutenant-Governor in Council. R.S.O. 1927, c. 52, s. 8 (1).

Enforcement of contract.

9. Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, shall enure to the benefit of His Majesty, and may be enforced as if entered into with



His Majesty under the authority of this Act. R.S.O. 1927, c. 52, s. 9.

**10.** All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney-General of Ontario. R.S.O. 1927, c. 52, s. 10. Who may bring action..

**11.** The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to any public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1927, c. 52, s. 11. Possession of maps, etc., relating to public works.

#### POWER TO TAKE LAND, ETC.

**12.** The Minister may himself, or by his engineers, superintendents, agents, workmen, or servants, for any purpose relative to the use, construction, maintenance or repair of a public work, or for obtaining better access thereto and without the consent of the owner, Power to enter on and use land.

- (a) enter into and upon any land to whomsoever belonging, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary;
- (b) enter upon, take and use any land, stream, water or watercourse;
- (c) enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stone, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;
- (d) make and use all such temporary roads to and from such timber, stone, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;

(e) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof, and the land theretofore used for the railway or road, or part of a railway or road so discontinued shall belong to the Crown and may be disposed of as to the Minister may seem proper; and

(f) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric wire or pole. R.S.O. 1927, c. 52, s. 12.

Power to  
acquire land.

**13.** The Minister may for and in the name of His Majesty purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land which he may deem necessary for

(a) the public purposes of Ontario; or

(b) the use or purposes of any Department of the Government thereof. R.S.O. 1927, c. 52, s. 13.

Restoration  
and main-  
tenance of  
walls, fence.

**14.** Where it is deemed necessary, in the building, maintaining or repairing of a public work, to take down or remove any wall or fence of any owner of land adjoining the public work, or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased, and after the same has been so replaced, or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed, or such ditch or drain had always existed. R.S.O. 1927, c. 52, s. 14.

Sidings,  
water pipes  
and tracks.

**15.—(1)** Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be, and all the provisions

of this Act, except such as relate to the filing of plans and descriptions, shall apply to obtaining the right of way from the public work to the land on which such materials are situated, and such right may be acquired for a term of years, or permanently, as the Minister may think proper.

(2) The powers conferred by this section may be exercised, after the public work is constructed, for the purpose of repairing and maintaining the same. R.S.O. 1927, c. 52, s. 15. Powers as to repair and maintenance.

**16.**—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by His Majesty for a public work. Power to employ surveyor or engineer.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer. Establishing boundaries.

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and such boundaries had been established and such monuments planted by an Ontario land surveyor. Effect.

(4) Such boundaries shall be held to be the true and unalterable boundaries of such property, if,— Confirmation.

- (a) they are so established, and such monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected; and,
- (b) a written description of such boundaries is approved and signed in the presence of two witnesses by such engineer or surveyor on behalf of the Minister and by the person concerned; or, in case of the refusal of any proprietor to approve or to sign such description, such refusal is recorded in such description; and,
- (c) such boundary marks or monuments are planted in the presence of at least one witness who shall sign such description.

Discretion of  
Minister.

(5) It shall not be incumbent on the Minister or those acting for him to have boundaries established with the formalities in this section mentioned, but it may be resorted to whenever the Minister deems it necessary. R.S.O. 1927, c. 52, s. 16.

#### EXPROPRIATION.

Plans and  
descriptions.

**17.**—(1) Where the Minister desires to expropriate land under the power conferred by this Act he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and such land shall thereupon become and be vested in the Crown.

Where land  
temporarily  
required,  
etc.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the Crown.

Correcting  
plans and  
descriptions.

(3) In case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect.

Plans and  
descriptions  
of land  
occupied by  
the Crown.

(4) A plan and description of any land at any time in the occupation or possession of the Crown and used for the purposes of any public work, may be deposited at any time, in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein.

Verification  
of plans and  
descriptions.

(5) In all cases, when any such plan and description, purporting to be signed by the deputy minister, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, is so deposited the same shall be deemed to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work, and the plan and description shall not be called in question except by the Minister, or by some person acting for him for or the Crown. R.S.O. 1927, c. 52, s. 17.



**18.** Where land appropriated for a public work is Crown land, under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands and Forests. R.S.O. 1927, c. 52, s. 18.

When land of Crown is taken.

*Agreements and Conveyances.*

**19.—(1)** Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown, and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under the provisions of this Act.

Contracts by tenants in tail, executors and others.

(2) Where there is no guardian or other person to represent a person under disability, the judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. R.S.O. 1927, c. 52, s. 19.

Representation of person under disability.

*Warrant for Possession.*

**20.—(1)** If any resistance or opposition is made by any person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the judge may, on proof of the execution of a conveyance of such land to His Majesty, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district within which such land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

Warrant for possession.

Duty and powers of sheriff.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof, and shall forthwith make return to the court of such warrant, and of the manner in which he executed the same. R.S.O. 1927, c. 52, s. 20.

*Compensation for Land Taken or Injured.*

Right to compensation.

**21.** The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage which the owner may derive from the contemplated work, and any claim for such compensation not mutually agreed upon, shall be determined as hereinafter provided. R.S.O. 1927, c. 52, s. 21.

Notice to be given to owner.

**22.** Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

(a) if the owner is known and he is a resident of Ontario, by serving upon or by mailing by registered post addressed to him at his last known place of abode a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation, must file the same in the office of the Minister within six months after such registration, or, in the case of land injuriously affected, within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to him; and

(b) by the publication of a similar notice once a week for at least three weeks in some newspaper having a general circulation in the county or district in which the land affected is situate. R.S.O. 1927, c. 52, s. 22.

Compensation where land not expropriated.

**23.** When the Minister has exercised any of the compulsory powers conferred by this Act other than the power

to expropriate land, he shall within sixty days after the exercise of such power, give and publish a notice similar to and in like manner as is provided for in section 22 and the provisions of section 26 as to claims to and for the determination of the compensation shall apply. R.S.O. 1927, c. 52, s. 23.

**24.** Where the notice provided for by section 22 or 23 has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under the provisions of this Act unless the claim and the particulars thereof have been filed with the secretary of the Department in the case of land taken within six months after the registration of the plan, or in the case of land injuriously affected within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to the claimant. R.S.O. 1927, c. 52, s. 24.

Time within which claim for compensation to be made.

**25.** If the Minister is of opinion that he can obtain the whole of any lot or parcel of land of which any part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring such part only he may expropriate the whole of such lot or parcel and also a right of way thereto, if the same is separated from the public work, and may afterwards sell and convey the same or any part thereof as he deems expedient. R.S.O. 1927, c. 52, s. 25.

Power to take whole lot when part only required.

**26.** The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of such compensation to be determined by arbitration under the provisions of this Act. R.S.O. 1927, c. 52, s. 26.

Notice to determine amount of compensation.

**27.** Subject to the provisions of section 24, the judge upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of such compensation and may give such directions for the service of the appointment and as to the persons to be served as he shall deem proper. R.S.O. 1927, c. 52, s. 27.

Appointment before judge.

**28.** Where the Minister gives notice to the owner either before or after the service of the appointment upon him, that he desires that the compensation shall be determined by the Ontario Municipal Board instead of by the judge, the chairman of the Board shall give the appointment upon the like application and shall have power to give like directions as the judge might have given under section 27 and the

Appointment before Ontario Municipal Board.

proceedings shall thereafter be taken before the Board.  
R.S.O. 1927, c. 52, s. 28.

Proceedings  
before judge.

Rev. Stat.,  
c. 109.

**29.** Save as otherwise provided by this Act, the provisions of *The Arbitration Act* shall apply to the proceedings taken under this Act before the judge. R.S.O. 1927, c. 52, s. 29.

Proceedings  
before  
Board.

Rev. Stat.,  
c. 60.

**30.** The provisions of *The Ontario Municipal Board Act* shall apply to proceedings taken before that Board under this Act. R.S.O. 1927, c. 52, s. 30.

Appeal to  
Court of  
Appeal.

**31.**—(1) Where the amount of the claim exceeds \$500, the Minister or the claimant may by leave of the Court of Appeal, appeal to that Court from any determination or order of the judge or of the Board under this Act as to compensation.

Terms.

(2) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the Court may deem just.

Procedure.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same *mutatis mutandis* as upon an appeal from a county court.

Finality.

(4) The decision of the Court of Appeal shall be final.

Rev. Stat.,  
c. 60,  
s. 157,  
not to apply.

(5) Section 157 of *The Ontario Municipal Board Act* shall not apply to any appeal under this section. R.S.O. 1927, c. 52, s. 31.

Character of  
compensation.

**32.** The compensation agreed upon or adjudged for any land or property acquired, taken, or used in or injuriously affected by the exercise of any of the powers conferred by this Act shall stand in the stead of such land or property, and any claim to or encumbrance thereon shall, as respects the Crown, be converted into a claim to or upon such compensation, and shall no longer affect such land or property so acquired, taken or used. R.S.O. 1927, c. 52, s. 32.

Right of  
Crown to  
abandon  
land  
taken.

**33.**—(1) Where at any time before the compensation has been actually ascertained or determined, land taken for a public work, or any part thereof, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or



that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon

- (a) the land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him, or
- (b) in the event of a limited estate or interest therein being retained by the Crown, the land shall so revert subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation. Effect upon compensation.

(3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and if a reference as to compensation is pending shall be determined on such reference. Damages where abandonment complete. R.S.O. 1927, c. 52, s. 33.

**34.** If the compensation agreed upon or adjudged does not exceed \$100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to such compensation as against the person receiving the same. Payment of compensation up to \$100. R.S.O. 1927, c. 52, s. 34.

**35.**—(1) In the cases provided for in section 19 the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the accountant of the Supreme Court, with interest thereon at five per centum for six months. Payment of compensation into Court.

(2) A notice in such form and for such a time as a judge of the High Court may direct shall be published in such newspaper as the judge may order, stating that the land is purchased, acquired or taken by the Crown under the provisions of this Act, and calling upon all persons entitled to the land or to any part thereof to file their claims to the compensation or any part thereof, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of Proceedings after payment into Court.

the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

Adjustment.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into Court, the judge may direct a proportionate part of the interest to be returned to the Minister, and if it is not obtained until after six months have expired the judge may order the Minister to pay interest for such further period as may be deemed just.

Representation of parties.

(4) Where unborn issue or an unascertained person or class are interested in the compensation, the judge may appoint such person as may be deemed proper to represent or act for them, and any order made shall be binding on them. R.S.O. 1927, c. 52, s. 35.

Power of Minister to require particulars.

**36.** Every person who has any estate or interest in any land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. R.S.O. 1927, c. 52, s. 36.

When reparation by Crown may be ordered.

**37.** If the injury to any land or property alleged to be injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. R.S.O. 1927, c. 52, s. 37.

*Interest.*

Interest on compensation money.

**38.**—(1) Interest at the rate of five per centum per annum may be allowed on the compensation from the time when the land or property was taken, used or injuriously

affected; but no person to whom has been tendered a sum equal to or greater than the compensation shall be allowed interest thereon for any time subsequent to the date of the tender.

(2) If the judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow the same at such rate less than five per centum per annum as may appear just. R.S.O. 1927, c. 52, s. 38.

When interest may be withheld.

*Arbitration of Claims Under Contract.*

**39.**—(1) If any person has a claim arising out of or connected with, the execution or fulfilment, or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of any public work entered into with the Minister, either in the name of His Majesty, or in any other manner, the person may give notice in writing of his claim to the Minister, stating the particulars thereof, and how the same has arisen.

Claims arising under contracts may be made,

(2) The claim may be referred by the Minister to the Board for determination under the provisions of this Act, but no claim shall be referred or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment, made on account thereof, full particulars of the claim have been filed with the secretary of the Department.

and may be referred by Minister for determination.

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the same are to be decided by the Minister or by some person named in the contract. R.S.O. 1927, c. 52, s. 39.

When reference not allowed.

*Payment of Compensation or Costs.*

**40.** The Treasurer of Ontario may pay to any person, out of the Consolidated Revenue Fund, any sum to which, under the provisions of this Act, he is entitled as compensation or for costs. R.S.O. 1927, c. 52, s. 40.

Payment of compensation or costs.

## MISCELLANEOUS.

Interest and  
powers of  
the Crown.

**41.**—(1) All lands, streams, water-courses and property acquired for any public work shall be vested in the Crown and, when not required for the public work, may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council.

Hydraulic  
powers.

(2) All hydraulic powers created by the construction of any public work, or by the expenditure of public money thereon, shall be vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council. R.S.O. 1927, c. 52, s. 41.

Power to  
employ  
engineers,  
etc., to  
examine land  
for drainage,  
etc.

**42.** The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and such engineers and surveyors shall be under the direction of the Department, and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R.S.O. 1927, c. 52, s. 42.

Report  
of results.

**43.** The Minister shall submit to the Lieutenant-Governor, in his annual report to be laid before the Assembly a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands so as to render them available for cultivation, with his recommendation respecting the same. R.S.O. 1927, c. 52, s. 43.

Power to  
make certain  
contracts.

**44.** The Minister may make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works which he may deem necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the same available for cultivation. R.S.O. 1927, c. 52, s. 44.

Power to re-  
move ob-  
structions on  
report of  
engineer.

**45.**—(1) Where it has been ascertained, on the report of an engineer, that there exists, or is being or has been constructed, across a river, stream, or water-course, any mill-dam, embankment or obstruction which impedes, or which, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop the construction thereof, or cause the same to be removed, or a slide to be constructed, as in his opinion



may be most advisable, and if the owner of such mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction, or of its removal, or of the construction of any slide under the provisions of this section, he shall be entitled to compensation to be agreed upon or determined under the provisions of this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction, and the compensation shall be paid within six months after the same has been agreed on or determined. Compensation.

(2) Every such slide shall be under the control of the Department, and the Minister, his engineers and agents, shall be entitled to free access to the same at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. Control of slides.  
R.S.O. 1927, c. 52, s. 45.

46. Nothing in this Act shall give authority to the Minister to incur any expenditure not previously sanctioned by this Legislature, except for such repairs and alterations as the immediate necessities of the public service demand. Saving authority of Legislature.  
R.S.O. 1927, c. 52, s. 46.

47. The provisions of *The Ontario Drainage Act*, being Chapter 36 of the Revised Statutes of Ontario, 1887, shall not apply to expenditure under sections 42 to 45 upon lands in a provisional judicial district. Rev. Stat., 1887, c. 36 not to apply to certain expenditure.  
R.S.O. 1927, c. 52, s. 47.

48. This Act shall apply to public works constructed, operated or maintained by any commission appointed by or under the authority of this Legislature and to every such commission, and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it, and in the application of this Act thereto where the word "Minister" or the word "Department" occurs, it shall mean such commission. Application of Act to commission appointed by Legislature.  
R.S.O. 1927, c. 52, s. 48.

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## CHAPTER 55.

The Temiskaming and Northern Ontario  
Railway Act.

Interpreta-  
tion,  
"Commis-  
sion."

**1.** In this Act "Commission" shall mean Temiskaming and Northern Ontario Railway Commission. R.S.O. 1927, c. 53, s. 1.

Commission  
—how  
composed.

**2.**—(1) The body corporate heretofore established under *The Temiskaming and Northern Ontario Railway Act* is continued and shall be composed of one or more persons appointed by the Lieutenant-Governor in Council, who shall hold office during pleasure. 1935, c. 70, s. 2 (1).

Quorum.

(2) A majority of the members of the Commission shall form a quorum. R.S.O. 1927, c. 53, s. 2 (2).

Tenure of  
office.

**3.** Each of the Commissioners shall hold office during the pleasure of the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council upon the death, resignation or removal from office of any Commissioner may appoint another person to fill the vacancy thereby created. R.S.O. 1927, c. 53, s. 3.

Chairman,  
vice-  
chairman.

**4.** Where the Commission is composed of more than one person the Lieutenant-Governor in Council may from time to time designate one of the Commissioners to be chairman of the Commission and one of the Commissioners to be vice-chairman of the Commission. R.S.O. 1927, c. 53, s. 4; 1935, c. 70, s. 3.

Travelling  
expenses  
and honorar-  
ium.

**5.** The chairman and each of the Commissioners shall receive his actual travelling expenses and other disbursements properly incurred in discharging his duties, and such salary or remuneration, not exceeding \$9,000, as the Lieutenant-Governor in Council may direct. 1935, c. 70, s. 4.

Railways,  
etc., vested  
in Commis-  
sion.

**6.**—(1) The railways and branch lines heretofore constructed by the Commission and all other works constructed and used in connection therewith, and any other railways, branches and other works constructed by the Commission under the authority of this Act, shall be vested in the Commission for the purposes herein set forth.

(2) Subject to the approval and direction of the Lieutenant-Governor in Council, the Commission may,— Powers of Commission.

(a) construct, equip, maintain and operate a line or lines of railway from the present northern terminus of the railway to some point on James Bay or the vicinity thereof;

(b) construct, complete, equip, maintain and operate such spurs and branches from any of the lines of railway of the Commission as may be deemed necessary, not exceeding twenty miles in length in any one place, and may exercise the like powers with respect to such spurs and branches as it has exercised and may exercise with respect to any such lines;

(c) construct, complete, equip, maintain and operate telephone and telegraph lines and with respect thereto shall have and exercise all the powers which may be exercised by a railway company under *The Railway Act* or by any general Act of the Legislature affecting railways for the time being in force, or by a telephone or telegraph company incorporated under the general laws of the Province of Ontario. R.S.O. 1927, c. 53, s. 6. Rev. Stat., c. 259.

(d) purchase or otherwise acquire motor vehicles and trailers as defined by *The Highway Traffic Act*, aeroplanes and lines of busses, coaches, trucks and aeroplanes, and may operate, maintain, control and manage such vehicles, trailers, aeroplanes and lines for the purpose of carrying on or upon the highway and elsewhere the business of a public carrier of passengers and freight. 1936, c. 61, s. 2. Powers of Commission. Rev. Stat. c. 288.

7. The provisions of *The Commercial Vehicle Act* and sections 2 to 9, 25 and 26 of *The Public Vehicle Act* and amendments thereto, and subsection 4 of section 423 of *The Municipal Act* shall not apply to or be binding upon the Commission. 1936, c. 61, s. 3, *part*. Exemption from licenses. Rev. Stat. cc. 290, 289, 266.

8. Subject to the approval of the Lieutenant-Governor in Council, the Commission may promote, cause to be incorporated and organized a company or companies under any public or private Act of any province or of the Dominion of Canada for the exercise of all or any of the powers conferred upon the Commission, or for the better operation, management or control of its undertaking or any part thereof, and every Power to incorporate subsidiary companies.

such company shall possess and enjoy all the rights, remedies and immunities conferred by law or by this Act upon the Commission. 1936, c. 61, s. 3, *part.*

Approval of  
Lieutenant-  
Governor  
in Council.

**9.** The location of the lines of railway and other works of the Commission, and of the branches and the plans of all works proposed, and the by-laws of the Commission shall be subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1927, c. 53, s. 7.

Tolls and  
fares.

**10.—(1)** The Commission may make regulations fixing the fares and tolls to be charged for all traffic carried and with respect to any telephone or telegraph lines operated by the Commission as herein authorized. R.S.O. 1927, c. 53, s. 8 (1); 1936, c. 61, s. 4.

Cancellation  
or amend-  
ment by  
Government.

**(2)** The regulations so made shall at all times be subject to cancellation or amendment at the direction of the Lieutenant-Governor in Council. R.S.O. 1927, c. 53, s. 8 (2).

Agreement  
with  
railway  
companies.

**11.—(1)** Subject to the approval and direction of the Lieutenant-Governor in Council, the Commission may enter into an agreement with any railway company to provide and secure such reciprocal running powers, traffic arrangements and other rights over and in respect of the railway of such company and the railway constructed or to be constructed by the Commission as will afford to such company and to the Commission reasonable and proper facilities for mutually exercising such running powers, fair and reasonable traffic arrangements and equitable mileage rates between the Commission and such company.

Approval  
of Assembly  
to lease  
of lines.

**(2)** No lease by the Commission of any of the lines of the railway shall have effect until approved of by resolution of the Assembly except a lease made with the approval of the Lieutenant-Governor in Council of a spur, branch or portion of line not exceeding ten miles in any one place.

Existing  
agreements.

**(3)** The contracts and agreements heretofore entered into by the Commission shall have effect according to the terms thereof until altered or cancelled by consent of the parties thereto. R.S.O. 1927, c. 53, s. 9.

Motive  
power.

**12.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may operate the railway or any section thereof by electricity or by any other motive power. R.S.O. 1927, c. 53, s. 10.



**13.**—(1) The Commission may purchase land for and erect power houses, warehouses, elevators, docks, stations, work-shops, garages, hangars, aerodromes, offices and any other works necessary for the exercise of the powers conferred upon the Commission and may sell and convey any such land as may from time to time be found superfluous for any such purpose. R.S.O. 1927, c. 53, s. 11 (1); 1936, c. 61, s. 5.

Power houses, elevators, docks, vessels, etc.

(2) The Commission may hold and operate as part of the property of the Commission as many steam or other vessels as the Commission deems requisite from time to time to facilitate the carriage of passengers, freight and other traffic in connection with the railway. R.S.O. 1927, c. 53, s. 11 (2).

Steam and other vessels.

**14.** The Commission may erect and maintain all necessary and convenient buildings, garages, hangars, aerodromes, filling stations, stations, depots, wharves and fixtures, and may from time to time alter, repair or enlarge the same, and may purchase and acquire motors, motor vehicles, trailers, aeroplanes, engines, carriages, wagons and other machinery and contrivances necessary for the working of the railway and its busses, trucks and aeroplane lines and the accommodation and use of the passengers, freight and business of the Commission. 1936, c. 61, s. 6, *part*.

Erection, maintenance, alteration and repair of buildings, etc.

**15.** The Commission may sell or otherwise dispose of any motor vehicles, aeroplanes, equipment or works as may from time to time be found superfluous or unfit for the purposes of the Commission. 1936, c. 61, s. 6, *part*.

Power to sell or dispose of motor vehicles, etc.

**16.** The Commission may, subject to the approval of the Lieutenant-Governor in Council, construct, maintain and operate works for the production of electricity or other motive power for the said railway, and for lighting and heating the rolling stock and other property of the railway, and may from time to time sell or lease any such electricity or other motive power not required for the purposes aforesaid to any person or corporation and may acquire and hold any property necessary for such purposes. R.S.O. 1927, c. 53, s. 13.

Works for production of electricity.

**17.** The Commission may acquire the right to convey and transmit electric or other power required for the working of the railway or any other works of the Commission, and lighting or heating the same over, through or under land other than the land of the Commission, and may purchase or otherwise acquire the right to lay conduits under, or erect poles or wires on or over such land as may be determined by the Commission, and along and upon any of the public highways or across any of the waters in Ontario, by the erection

Works for transmission of power.

of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires for such lines, or the conduits for such electricity or other power upon and subject to such agreement in respect thereto as shall first be made between the Commission and any private owners of the land affected, or failing such agreement subject to the right of expropriation as provided in section 21. R.S.O. 1927, c. 53, s. 14.

Transfer of ungranted Crown lands to Commission.

**18.**—(1) The Lieutenant-Governor in Council may by Order-in-Council transfer to the Commission any ungranted land in Ontario which in the opinion of the Commission is required for the railway or for convenient and necessary right-of-way, sidings, yards or stations or for the supply, for the purposes of the railway, of stone, gravel, earth, sand or water, or for any other purpose or use in connection with the railway or other works of the Commission.

Registration of Order making transfer.

(2) Registration of a certified copy of any such Order-in-Council in the registry office or offices of land titles, as the case may be, for the registry district in which the land is situate, shall be deemed to vest and shall vest in the Commission as trustee for Ontario, the land described in such Order-in-Council. R.S.O. 1927, c. 53, s. 15.

Appointment of officers and employees.

**19.** Subject to any general regulation which may be made by the Lieutenant-Governor in Council, the Commission may from time to time appoint such officers and employees as the Commission may deem necessary for the proper conduct of the business of the Commission, and may prescribe their duties and fix their remuneration. R.S.O. 1927, c. 53, s. 16.

Security for safekeeping of funds.

**20.** Security shall be given by any person entrusted by the Commission with the custody and control of money by virtue of his employment, in such manner and to such amount as may be prescribed by the Commission with the approval of the Lieutenant-Governor in Council. R.S.O. 1927, c. 53, s. 17.

General powers of Commission.

**21.**—(1) The Commission shall have in respect of the railway and works, in addition to all the powers, rights, remedies and immunities conferred by this Act, all the powers, rights, remedies and immunities conferred upon any railway company by *The Railway Act*, or by any general Act of this Legislature affecting railways for the time being in force, but *The Railway Act* or any other such Act shall not in other respects apply to the railway or be binding upon the Commission.

Rev. Stat. c. 259.

Expropriation of easements, etc.

(2) The Commission may from time to time, at its option, in lieu of expropriating land under the provisions of any such

general railway Act, expropriate such easements, rights of user and rights of support as shall be indicated in any notice to be given by the Commission in that behalf, and in any such case the compensation to the owners or other persons interested in any such land shall be reasonable compensation for such easements, rights of user and rights of support.

(3) In lieu of proceeding in the manner provided by *The Railway Act* or any other general Act of the Legislature affecting railways, the Commission may at its option acquire and expropriate any such lands, easements, rights of user and rights of support in the same manner *mutatis mutandis* as is provided in the case of land or property taken by the Crown as represented by the Minister of Public Works under *The Public Works Act*, and any claim for compensation for any such lands, easements, rights of user or right of support shall in that case be determined in the manner provided by the said *Public Works Act*.

Alternative method of expropriation.

Rev. Stat. cc. 259, 54.

(4) The railway of the Commission, including any branch lines, spurs or sidings, may be carried along or across existing highways upon leave therefor having been first obtained from the Ontario Municipal Board, and sections 118 to 128 of *The Railway Act* shall apply to any such occupation of existing highways, and to the construction and use of any such railways carried along or across the same and to any application for such leave. R.S.O. 1927, c. 53, s. 18.

Carrying railways over highways.

Rev. Stat. c. 259.

(5) The provisions of sections 285 and 287 and of sections 291 to 295 of *The Railway Act*, shall in respect of the Commission and its railway and the works thereof, apply thereto and to persons charged with offences or subject to the penalties therein mentioned in the same manner and to the same extent, *mutatis mutandis*, as if such sections had been enacted in this Act and formed part thereof.

Application of Rev. Stat., c. 259.

(6) The Commission may appoint constables, and for the purposes mentioned in *The Railway Act* every person appointed by the Commission as a constable, and every conductor of a train of the Commission carrying passengers shall have in respect of his duties, all the powers and rights conferred upon railway constables and conductors of passenger trains, respectively, by *The Railway Act* or by any other general Act affecting such officials for the time being in force, and the provisions of *The Public Authorities Protection Act* respecting constables shall, *mutatis mutandis*, apply to any such constable and conductor. 1934, c. 58, s. 2.

Powers of constables and conductors.

Rev. Stat. cc. 259, 135.

**22.** Wherever in this Act the approval or consent of the Lieutenant-Governor in Council is made a condition precedent

Approval of Lieutenant-Governor in Council.

to the exercise of any power conferred on the Commission, such power may be exercised by any company which the Commission may cause to be incorporated providing the approval or consent of the Lieutenant-Governor in Council is obtained. 1936, c. 61, s. 7.

Supplies and rolling stock to be purchased in Canada.

**23.** The railway shall as far as practicable be constructed, equipped and operated with railway supplies and rolling stock made, purchased or procured in Canada, if they can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality and price. R.S.O. 1927, c. 53, s. 19.

Employment of aliens in construction prohibited.

R.S.C., 1927, c. 109.

**24.** No person shall be employed in the construction of the railway and works in contravention of *The Alien Labour Act* or the provisions of any general railway Act of Ontario respecting the employment of alien labour. R.S.O. 1927, c. 53, s. 20.

Current rate of wages to be paid.

**25.** The workmen, labourers and servants employed in or about the construction or operation of the railway and works shall be paid such rates of wages as may be concurrently payable to workmen, labourers and servants engaged in similar occupations in the districts in which such railway and works are constructed and operated. R.S.O. 1927, c. 53, s. 21.

Transfer of lands to Commission for town sites, etc.

**26.—(1)** The Lieutenant-Governor in Council may from time to time by Order-in-Council transfer to the Commission for town sites, portions of the ungranted land of Ontario along the line of railway adjacent to stations or proposed stations, and the registration of a certified copy of any such Order-in-Council in the registry office, or office of land titles as the case may be, for the registry districts in which the land is situate shall vest in the Commission, as trustee for Ontario, the land described in any such Order-in-Council.

Acquiring other lands for same purpose.

**(2)** The Commission may for the same purpose from time to time acquire other land so situate by the same means as it is authorized to acquire land for right-of-way and station grounds, and shall have all the rights and powers with reference to the acquisition thereof by expropriation or otherwise as it has with reference to the acquisition of land for right-of-way, but the land acquired for town sites shall not exceed one thousand acres for any one site.

Powers of Commission as to disposing of lands.

**(3)** The Commission may from time to time lay out, sell, lease or otherwise dispose of any part of such land as it may think proper, and may take mortgages or other securities for any unpaid purchase money. R.S.O. 1927, c. 53, s. 22.



**27.** Subject to any general regulation which may be made by the Lieutenant-Governor in Council, the Commission may from time to time sell, lease or otherwise deal with mines, minerals and mining rights upon or under any portion or portions of the right-of-way, town sites or other lands now vested and hereafter vested in the Commission. R.S.O. 1927, c. 53, s. 23.

Minerals and  
mining  
rights.

**28.** The laying out, whether by plan or otherwise, or the dedication in any manner of any land within any town site as or for public streets or highways shall not be deemed to revert in the Crown, or to vest in the corporation of the municipality in which such town site is situate, any mines, minerals or mining rights theretofore granted by the Crown to the Commission or to any other person on or under any such land so laid out or dedicated, but the Commission or such other grantees of the mines, minerals and mining rights on or under the land so laid out or dedicated shall have the right from time to time to carry on mining operations on or under such land, or to sell, lease or otherwise deal with the mines, minerals and mining rights on or under such land, subject, however, to the obligation of all parties actually conducting mining operations on or under any such land, whether as owners, lessees or otherwise, to conduct such mining operations in such way as shall not interfere with public travel upon such streets and highways. R.S.O. 1927, c. 53, s. 24.

Dedication  
of highways  
not to affect  
mining  
rights.

**29.** No such mining operations shall at any time be begun or carried on upon or under any land so laid out or dedicated as public streets or highways until after the person, whether as owner, lessee or otherwise proposing to carry on such mining operations, shall have submitted to the council of the municipality in which such streets or highways are situate proper plans of such proposed mining operations with all necessary specifications and details, nor until such plans have been approved in writing by the engineer of such municipality, or an engineer appointed by the corporation of the municipality for that purpose, and may thereafter be carried on in strict conformity to such plans and not otherwise. R.S.O. 1927, c. 53, s. 25.

Conditions  
precedent to  
right to  
carry on  
mining.

**30.—(1)** The Commission, and any or all of the commissioners or any officer of the Commission designated by the Commission for that purpose, may hold the shares of the Nipissing Central Railway Company heretofore acquired or of any company caused to be incorporated by the Commission under the authority of this Act, in trust for Ontario and may exercise all the rights of shareholders in respect of the shares so held by them. R.S.O. 1927, c. 53, s. 26 (1); 1936, c. 61, s. 8 (1).

Holding  
shares.

Commission  
authorized  
to advance  
funds to  
Nipissing  
Central for  
construction.

(2) The Commission may advance to the Nipissing Central Railway Company such sums as may be required from time to time for the maintenance and operation of the line of railway of said company, or for the purchase, construction, repair and maintenance of the equipment thereof.

For equip-  
ment.

(3) The Commission, with the approval of the Lieutenant-Governor in Council, may also advance to the Nipissing Central Railway Company such sums as may from time to time be required for the construction and completion of the line or lines of railway of the said company. R.S.O. 1927, c. 53, s. 26 (2, 3).

Guarantee-  
ing contracts.

(4) The Commission may guarantee the performance of any and all obligations or undertakings of the said Nipissing Central Railway Company or of any company caused to be incorporated by the Commission under the authority of this Act, and the repayment of any advances made to any such company for the purposes aforesaid or any of them, but shall not guarantee any obligations for construction until authorized by the Lieutenant-Governor in Council. R.S.O. 1927, c. 53, s. 26 (4); 1936, c. 61, s. 8 (2).

Commission  
authorized  
to advance  
funds to  
subsidiaries.

(5) The Commission, with the approval of the Lieutenant-Governor in Council, may from time to time advance to any company caused to be incorporated by the Commission under the authority of this Act such sums as may be required for such purposes. 1936, c. 61, s. 8 (3).

Commission  
authorized  
to issue  
bonds, etc.

**31.**—(1) Subject to the approval of the Lieutenant-Governor in Council the Commission may borrow money from time to time for the construction of its railway or the railway of the Nipissing Central Railway Company and the purchase of rolling stock and other equipment therefor, and for the purchase of motor vehicles, trailers, aeroplanes, lines of busses, coaches, trucks and aeroplanes and equipment therefor, and for the maintenance thereof, and may issue bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed and such securities may be charged upon and secured by the property, assets, rights, rents and revenues of the Commission present or future therein described and may be payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such interest as the Commission may deem proper. R.S.O. 1927, c. 53, s. 27 (1); 1936, c. 61, s. 9.

Guarantee-  
ing bonds.

(2) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for the purposes aforesaid.

(3) The form of guaranty and the manner of its execution shall be determined by the Lieutenant-Governor in Council. Form of guaranty.

(4) For the purposes of this section wherever the word "railway" occurs herein it shall mean and include the railway which the Commission or the Nipissing Central Railway Company is authorized to construct or operate and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property, real or personal, and works connected therewith and also any railway bridge, tunnel, or other structure which the Commission or the Nipissing Central Railway Company is authorized to construct. R.S.O. 1927, c. 53, s. 27 (2-4). "Railway."

**32.** The Lieutenant-Governor in Council may from time to time authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund, such sums as may be deemed necessary for the construction, maintenance and operation of the railway and for the purchase, maintenance and operation of motor vehicles, trailers, aeroplanes, lines of busses, coaches, trucks and aeroplanes and equipment therefor. or other works of the Commission and all moneys so advanced shall be duly accounted for by the Commission. R.S.O. 1927, c. 53, s. 28; 1936, c. 61, s. 10. Advances out of Consolidated Revenue.

**33.** An account to be called the "Temiskaming and Northern Ontario Railway Account" shall be kept by the Treasury Department of all payments out of the Consolidated Revenue Fund and of moneys received from the Commission in repayment of any indebtedness incurred by the Commission. R.S.O. 1927, c. 53, s. 29. Special account in books of Treasury.

**34.—**(1) The moneys received by the Commission from the operation of its railway and other works and all moneys received by it in respect of any sale, lease or other disposal of land or town sites or in respect of the sale or lease of mines, minerals, mining rights or otherwise shall be applied,— Application of revenue.

(a) to the necessary operating expenses of the railway and works and of all works necessary to the preservation, improvement and maintenance of the railway and works of the Commission and to the protection of the rights of the Commission in town sites, mines, minerals and mining rights;

(b) to the payment of the remuneration and expenses of the commissioners and the salaries and other remuneration and expenses of the officers and others

employed by the Commission and other incidental expenses of the Commission;

- (c) to the payment of any amount due on account of interest in respect of money borrowed by the Commission pursuant to the powers conferred by this Act;
- (d) to the repayment of any amount due on account of principal in respect of money borrowed by the Commission pursuant to the powers conferred by this Act other than money borrowed on capital account;
- (e) to providing a sinking fund when required for the redemption of any securities issued by the Commission for repayment of any money so borrowed;

and the surplus, if any, shall be paid over to the Treasurer of Ontario at such times and in such manner as the Lieutenant-Governor in Council shall direct and shall form part of the Consolidated Revenue Fund.

Investment  
of surplus  
moneys.

(2) The amount of surplus to the credit of any sinking fund provided by the Commission shall be invested in securities of the Province of Ontario at such times and in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 53, s. 30.

Accounts to  
be kept by  
Commission.

**35.** The Commission shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which the same were received and paid, which books shall at all times be open to the inspection of any member of the Commission and of the Treasurer of Ontario, and of any person appointed by the Commission or Treasurer for that purpose and of any other person appointed by the Lieutenant-Governor, and any member of the Commission, and any of such persons may take copies of or extract from such books. R.S.O. 1927, c. 53, s. 31.

Annual  
report to  
Assembly.

**36.** The Commission shall make an annual report to the Assembly and shall include therein the report of its auditor, and such annual reports shall set forth the operations of the Commission for the fiscal year then last past and shall contain such particulars as may appear to the Commission to be of public interest or as may be required by the Lieutenant-Governor in Council. R.S.O. 1927, c. 53, s. 32.



**37.** No member of the Commission nor any officer or employee thereof shall make or enter into any contract with the Commission, or be pecuniarily interested directly or indirectly in any contract or work in regard to which any portion of the money under the control of the Commission is being or is to be expended. R.S.O. 1927, c. 53, s. 33.

**38.** No action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office without the consent of the Attorney-General of Ontario. R.S.O. 1927, c. 53, s. 34.

## CHAPTER 56.

## The Highway Improvement Act.

## PART I.

## INTERPRETATION.

## 1. In this Act,—

“Commis-  
sion.”

- (a) “Commission” shall mean a commission appointed under this Act to designate and define suburban roads towards the construction and maintenance of which a city or town may be called upon to contribute; R.S.O. 1927, c. 54, s. 1, cl. (a).

“Depart-  
ment.”

- (b) “Department” shall mean Department of Highways; 1931, c. 11, s. 2, *part*.

“Deputy  
Minister.”

- (c) “Deputy Minister” shall mean Deputy Minister of Highways;

“Fund.”

- (d) “Fund” shall mean Highway Improvement Fund;

“Highway.”

- (e) “Highway” shall mean a common or public highway, and shall include a street or bridge forming part of a highway, or on, over, under or across which a highway passes, or any other structure thereon;

“Main-  
tenance.”  
“Repair.”

- (f) “Maintenance” or “repair” shall include the cleaning of any highway or the removal of snow; R.S.O. 1927, c. 54, s. 1, cls. (c-f).

“Minister.”

- (g) “Minister” shall mean Minister of Highways; 1931, c. 11, s. 2, *part*.

“Roadway.”

- (h) “Roadway” shall mean and include the paved, metalled or travelled portion of the highway, together with any ditches, drainage or other construction incidental thereto;

- (i) "Road authority" shall mean the Department, a <sup>"Road authority."</sup> municipal corporation, board, commission or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor. R.S.O. 1927, c. 54, s. 1, cls. (h, i).

DEPARTMENT AND ADMINISTRATION.

2. The Department of Highways heretofore established <sup>Department continued.</sup> shall be continued and shall be presided over by the Minister. R.S.O. 1927, c. 54, s. 2.

3. The Lieutenant-Governor in Council may from time to time appoint a Deputy Minister of Highways who shall perform such duties in the Department as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. <sup>Deputy Minister.</sup> R.S.O. 1927, c. 54, s. 3.

4. The Deputy Minister shall, before entering upon the duties of his office, take an oath faithfully to discharge the <sup>Oath of Deputy Minister.</sup> same, which oath shall be administered by the Minister or by any person appointed by the Lieutenant-Governor in Council for that purpose. R.S.O. 1927, c. 54, s. 4.

5. The Lieutenant-Governor in Council may appoint a <sup>Secretary and staff.</sup> secretary of the Department and such engineers, surveyors and other officers, clerks and servants of the Department as may be deemed necessary and may prescribe their duties and fix their salaries or other remuneration which shall be payable out of any moneys appropriated by the Legislature for that purpose. R.S.O. 1927, c. 54, s. 5.

6. The Lieutenant-Governor in Council may enter into an <sup>Agreements as to application of provincial subsidies.</sup> agreement with the Governor in Council, or with any member of His Majesty's Privy Council for Canada acting for and on behalf of the Governor in Council, for the application to the cost of any work under this Act, of such subsidy or subsidies, or any part of such subsidy or subsidies as may be appropriated for highway improvement by the Parliament of Canada, and the Minister may vary the proportionate amounts to be paid by Ontario and by municipalities under this Act, by reason of such subsidy or subsidies, and may vary the conditions under which payment shall be made for construction, repair or maintenance, in consequence of such agreement. R.S.O. 1927, c. 54, s. 6.

HIGHWAY IMPROVEMENT FUND.

7. There shall be a fund to be known as the "Highway <sup>Fund and special account.</sup> Improvement Fund" and there shall be kept on the books of

the Treasurer of Ontario an account to be known as the "Highway Improvement Fund Account." R.S.O. 1927, c. 54, s. 7.

How  
made up.

8.—(1) In addition to all sums of money heretofore set apart and appropriated by the Legislature for the improvement of public highways there shall be placed to the credit of the Fund in the said account,—

Rev. Stat.,  
c. 288.

(a) a sum in every fiscal year equal to the gross receipts of the Province from motor vehicle permits and licenses and all other sources of revenue under *The Highway Traffic Act*; R.S.O. 1927, c. 54, s. 8 (1), cl. (a).

(b) a sum equal to all repayments to the Province on account of amounts chargeable to or received from municipalities, individuals, companies or corporations by reason of any work performed or expenditures incurred or materials or property sold or fees or fines imposed under any of the provisions of this Act and the regulations made thereunder; R.S.O. 1927, c. 54, s. 8 (1), cl. (b); 1935, c. 25, s. 2 (1).

1919 (1),  
c. 54 (Dom.)

(c) a sum equal to any subsidy or payments received from the Government of Canada under *The Canada Highways Act*;

Rev. Stat.,  
c. 32.

(d) a sum equal to any revenue collected by the Province under *The Gasoline Tax Act*, and the regulations made thereunder; R.S.O. 1927, c. 54, s. 8 (1), cls. (c, d).

(e) a sum equal to all revenues collected under any Acts administered by the Department or under the regulations passed under such Acts. 1935, c. 25, s. 2 (2).

How credits  
to be made.

(2) The sums mentioned in clauses *a* to *e* of subsection 1 shall be credited to the Fund annually as of the 1st day of November in each year and shall be computed upon the gross receipts from the sources designated in the said clauses in the next preceding fiscal year.

When  
additional  
sums  
required.

(3) Whenever directed so to do by the Lieutenant-Governor in Council the Treasurer of Ontario shall place to the credit of the Fund such additional amounts as may be required from time to time to meet the payments which may be authorized to be made out of the Fund, but such amounts shall not at any time exceed in the whole the sum which might be repaid



with interest and sinking Fund charges by an annual payment for twenty years of the sum of \$2,000,000.

(4) All payments which shall be made under this Act, <sup>Payments out of Fund.</sup> except those for which an annual appropriation is made by the Legislature shall be payable out of the Consolidated Revenue Fund and shall be chargeable to the Fund and be debited to the Highway Improvement Fund Account. R.S.O. 1927, c. 54, s. 8 (2-4).

9. There shall be laid before the Assembly by the Treasurer <sup>Annual statement to Assembly.</sup> of Ontario at the commencement of each session, a statement showing all sums credited to the Fund and all payments chargeable thereto during the fiscal year next preceding and the balance at the credit of the Fund at the close of the said fiscal year. R.S.O. 1927, c. 54, s. 9.

#### HIGHWAY COMMITTEE.

10.—(1) The Lieutenant-Governor in Council may ap- <sup>Highway Committee, appointment of.</sup> point from among the members of the Assembly a committee of three persons, who shall be known as the "Highway Committee."

(2) It shall be the duty of the Highway Committee when- <sup>Duties of Committee.</sup> ever requested so to do to consult with the Minister as to the administration of any Act of the Legislature respecting the construction, maintenance and operation of highways by municipal corporations or by the Province and to assist him by their recommendations and suggestions for improvements and amendments in the said Acts and the administration of the same.

(3) The Committee at the request of the Minister shall per- <sup>Committee to visit and inspect highways.</sup> sonally visit and inspect any highway or any district through which it is proposed to construct, improve or extend any highway under any of the said Acts.

(4) The Minister and Deputy Minister shall be *ex-officio* <sup>Minister and Deputy Minister to be members of Committee.</sup> members of the Committee and the Minister, or in his absence the Deputy Minister, shall preside at all meetings of the Committee.

(5) The members of the Committee shall serve without <sup>Travelling and living expenses.</sup> remuneration, but an allowance of \$15 per diem to cover living and travelling expenses while absent from home in the performance of the duties of the Committee shall be paid to each of the members of the Assembly serving on the Committee and the receipt of such allowance shall not vacate the

Rev. Stat.,  
c. 12.

seat of any such member nor disqualify him or render him ineligible to sit and vote as a member of the Assembly, anything in *The Legislative Assembly Act* to the contrary notwithstanding. R.S.O. 1927, c. 54, s. 10.

Special  
instruction  
in respect to  
highways.

**11.** The Minister may arrange for special instruction or publicity in respect to highway improvement and the cost of such service, including travelling and other expenses incidental thereto, or such part thereof as the Minister may approve, shall be payable out of any funds appropriated by this Legislature for the special instruction of superintendents, overseers and patrolmen. R.S.O. 1927, c. 54, s. 11; 1931, c. 11, s. 3.

## PART II.

### COUNTY ROAD SYSTEMS.

By-law  
establishing  
county road  
system.

**12.**—(1) Subject to the approval of the Lieutenant-Governor in Council as hereinafter provided the council of a county may by by-law adopt a plan of county road improvement and establish a county road system throughout the county by assuming roads in any municipality in the county and may include in such system such boundary line roads or portions thereof between the county and any other county, or between the county or a city or separated town, as may be agreed upon by the municipalities interested and the by-law shall designate the roads to be assumed or improved or intended to form or be added to the county road system.

General rate.

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of any municipality from the roads included in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of any municipality so exempt shall not vote upon any by-law passed under this Part, and for the purposes of section 13 the equalized assessment of any municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

Application  
of proceeds  
of rate.

(3) All moneys raised under such by-law shall be applied in the construction, improvement, maintenance and superintendence of roads included in the county road system and to any expenditure properly chargeable to county road systems under the provisions of this Act. R.S.O. 1927, c. 54, s. 12 (1-3).

(4) Where a county road system is established under this Act the council shall appoint three or five persons residents of the county but who need not be members of the council, who shall constitute a committee for the purpose of directing the work to be done on the county road system.

County  
road  
committee.  
  
Appoint-  
ment.

- (a) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years; one member shall be appointed and hold office for a term of two years, and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and shall hold office for a term of three years; and where the committee consists of five members, one member shall be appointed and hold office for a term of five years; one member shall be appointed and hold office for a term of four years; one member shall be appointed and hold office for a term of three years; one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and shall hold office for a term of five years;

Term of  
office.

- (i) A member upon the expiry of his term of office shall be eligible for reappointment;

- (b) A member of the committee may be removed by a vote of two-thirds of the members of the council present and voting thereon at any regular meeting of the council;

Removal  
from  
office.

- (c) Where a member of the committee is so removed or dies or resigns his office, the council may appoint some other person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed;

Vacancies.

- (d) The warden of the county for the time being shall be *ex officio* a member of the committee and may sit and vote thereon. 1930, c. 10, s. 2.

Warden  
*ex-officio*  
member.

(5) The administration and management of the county road system shall be vested in an officer to be appointed by by-law of the county council to be known as the county road superintendent, who shall be an engineer approved by the Minister, and the county road superintendent shall act under the direction of the county road committee.

County  
road super-  
intendent.

Qualifica-  
tions.

(a) Every engineer hereafter appointed by the council of a county, in pursuance of this section shall be a graduate in civil engineering of a university of recognized standing, or a member of the Engineering Institute of Canada, or an Ontario land surveyor;

Copy of  
by-law  
appointing  
to be trans-  
mitted to  
Department.

(b) A copy of the by-law appointing the county road superintendent shall be transmitted to the Department within thirty days of the passing thereof and such appointment shall be subject to the approval of the Minister, and when so approved shall not be repealed or amended without the consent in writing of the Minister. 1935, c. 25, s. 3.

Payment,  
how to be  
made.

(6) The disbursement of all moneys for works on or pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof.

Amendment  
of by-laws  
heretofore  
passed.

(7) Where a by-law has been heretofore passed for the purpose of establishing a county road system the council of the county, with the approval of the Lieutenant-Governor in Council, may amend such by-law in accordance with the foregoing provisions of this Part.

Members  
of councils  
not to be  
appointed.

(8) No member of the council of the county and no member of the council of any local municipality in the county shall be appointed as county road superintendent, or be employed by the county road superintendent in any capacity, and any such member who is appointed, or who acts or is employed in contravention of this section shall be disqualified from sitting or voting in the council of which he was a member at the time of his appointment or employment. R.S.O. 1927, c. 54, s. 12 (6-8).

When assent  
of electors  
not  
required.

**13.**—(1) Where a by-law passed under section 12 has received the assent of two-thirds of the members of the council of the county present and voting thereon, representing at least one-half of the total equalized assessment of the county, it shall not be necessary to submit the same to the electors of the county, but if before the final passing of the by-law the same has been submitted to and has received the assent of the electors of the county qualified to vote on money by-laws such by-law may be finally passed by a majority of the members of the council present and voting thereon, and a by-law so submitted to the electors may after such submission or after the final passing thereof be amended by the council in order to comply with any direction or requirement of the Minister,



and it shall not be necessary to submit any such amending by-law to the electors.

(2) Where two or more members of the council represent one local municipality and do not vote in the same manner for or against the by-law the equalized assessment of such municipality shall be proportionately divided in ascertaining the amount of the equalized assessment represented by members of the county council assenting to such by-law. R.S.O. 1927, c. 54, s. 13. Where representatives of local municipality differ.

14.—(1) Subject to the provisions of subsection 2, the council of any county may from time to time pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by *The Municipal Act*, such sums as may be necessary to meet the actual expenditure for the construction and improvement of highways under this Act not exceeding five per centum of the equalized assessment of the county, or the council may by by-law provide that the required amount shall be raised in equal annual instalments by a general county rate levied in each successive year for a period not exceeding ten years but such amount shall not exceed five per centum of the equalized assessment of the county and the provisions of this Act shall apply to any money heretofore or hereafter so provided as fully as if debentures had been issued whether a by-law transferring such money to a special account under Part II and Part III of this Act has or has not been passed. 1931, c. 11, s. 4 (1). Debentures. Rev. Stat., c. 266.

(2) Where the council of a county has paid over moneys raised on sinking fund account to the Treasurer of Ontario under the provisions of sections 328 and 329 of *The Municipal Act*, the amount to be raised for the construction and improvement of highways under subsection 1 may be a sum not exceeding the total amount so in the hands of the Treasurer of Ontario with five per centum of the equalized assessment of the county added thereto. 1929, c. 17, s. 2 (2); 1931, c. 11, s. 4 (2). Limit of amount of county rate. Rev. Stat., c. 266.

(3) Where a by-law to raise money by the issue of debentures or by an annual rate for a term of years has received the consent of two-thirds of the members of the council present and voting thereon it shall not be necessary to submit the same to the electors of the county as required by *The Municipal Act*, and this subsection shall be deemed to have been in force as from the 24th day of April, 1919. R.S.O. 1927, c. 54, s. 14 (2). When assent of electors not required. Rev. Stat., c. 266.

(4) The council of the county may agree with any chartered Temporary advances.

bank or loan or trust corporation or with any person for temporary advances to meet the cost of the work in progress, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the corporation of the county, together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part III, and the council of the county may pass a by-law or by-laws to raise by debentures in the same manner as provided in subsection 1, such sums as may be necessary to repay such temporary advances. R.S.O. 1927, c. 54, s. 14 (3); 1931, c. 11, s. 4 (3).

Raise funds  
by general  
rate.

(5) In addition to or in substitution for any amount which may be raised under subsection 1, the council of a county may raise in any year by general county rate such sums as the council may deem necessary for the purposes mentioned in the said subsection.

Limitation  
of debt.

(6) The limitation of county debentures which may be issued under subsection 1 to five per centum of the equalized assessment of the county shall apply only as to the amount of debentures outstanding at any time and such limitation shall be exclusive of debentures the proceeds of which are applied to expenditure within the limits of an urban municipality.

Application  
of proceeds  
of debentures.

(7) Money raised by the issue of debentures for road construction under authority of this Act shall be applied solely for that purpose, and shall not be used in paying any part of the current or other expenditure of the corporation, or for road repair or maintenance and if the council applies any of such money in paying current or other expenditure, or for road repair or maintenance, the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Liability for  
mis-  
application.

Action of  
ratepayer.

(8) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualifica-  
tion of  
members of  
council.

(9) The members who vote for such application shall be disqualified from holding any municipal office for two years. R.S.O. 1927, c. 54, s. 14 (4-8).

Submission  
of by-law for  
approval.

**15.** The corporation of the county shall submit the by-law for the improvement of county roads or the establishment of

a county road system to the Minister for approval by the Lieutenant-Governor in Council and upon receipt of the application for such approval the Minister may obtain such report upon the plan adopted by the county council as he may deem necessary and may hear the council of any local municipality which may be dissatisfied therewith before presenting the application for consideration to the Lieutenant-Governor in Council. R.S.O. 1927, c. 54, s. 15.

**16.** The Lieutenant-Governor in Council may approve the by-law in whole or in part and where the by-law is so approved in part only, it shall be enforced and take effect so far as approved, but it shall not be necessary for the council of the county to pass any further by-law amending the original by-law or repealing any portion thereof which has not been so approved. R.S.O. 1927, c. 54, s. 16.

**17.—(1)** The corporation of the county shall submit a by-law covering the estimated expenditure on roads for the calendar year to the Department for the Minister's approval, not later than the 31st day of January of the year in which the expenditure is to be made and such by-law shall include expenditures to be made by the suburban area commission in the said county.

(2) No subsidy shall be granted by the Department to any county for work undertaken by such county which has not been provided for by a by-law duly approved by the Minister. 1935, c. 25, s. 4.

**18.—(1)** Where a plan of highway improvement approved by the Lieutenant-Governor in Council under this Act is being carried out the county council shall annually and may at any time during the progress of the work submit to the Minister in such form as the regulations of the Department may require, a statement containing,—

- (a) a classified return prepared by the county road superintendent showing the receipts and expenditures in carrying out such plan, including the payments authorized by this Act to be made by the county to towns and villages;
- (b) a declaration of the county road superintendent that such classified return is correct and that the work has been done in the manner prescribed by the regulations of the Department;
- (c) a declaration of the treasurer of the county as to the correctness of the statement of receipts and expenditures shown in the superintendent's return;

(d) a certified copy of the resolution of the council authorizing a petition for the payment of the grant;

(e) a petition for the payment of the grant, and on receipt of such statement and certificates by the Treasurer of Ontario certified and approved by the proper officer of the Department;

the Minister may direct the payment to the corporation of the county of a sum equal to fifty per centum of the amount of such expenditure or such other proportion as may be authorized by this Act, or any other statute. R.S.O. 1927, c. 54, s. 17.(1)

Estimating grant.

(2) In estimating the amount of the grant or subsidy to which the municipal corporation is entitled under this Act, the salary of the county road superintendent, his travelling expenses, the purchase of additional right-of-way, the laying and operation of railway switches and sidings, the purchase of property, plant, machinery and the repair thereof, and any other expenditure of a general character shall be included, but no expenditure towards which a special contribution has been or may be made from any source shall be included unless by agreement with the Department, and in all cases of doubt or dispute the decision of the Minister shall be final. R.S.O. 1927, c. 54, s. 17 (2); 1935, c. 25, s. 5. '

Annual statements by county to Department.

**19.**—(1) The treasurer of every county shall, before the 1st day of March in each year, make up and transmit to the Minister a detailed and audited statement of all expenditure upon or in connection with county roads or bridges for the next preceding year.

Form of statement.

(2) The statement shall be in such form as the Minister may direct. R.S.O. 1927, c. 54, s. 18.

Highways to be county highways.

**20.** All highways designated and assumed by a county council in accordance with section 12, shall be maintained and kept in repair by the corporation of the county in which they are situate, and in all cases of doubt or dispute as to what constitute works of maintenance or repair, and what constitute works of construction and the purchase and maintenance and repair of road machinery, plant and equipment, properly chargeable under this Act, the decision of the Minister shall be final. R.S.O. 1927, c. 54, s. 19.

Proviso.

Regulations to govern county roads.

**21.** Every highway constructed or repaired as part of a county road system under the provisions of this Act shall be so constructed and repaired in accordance with the regulations of the Department. R.S.O. 1927, c. 54, s. 20.



**22.** Expenditure for which the corporation of any county may be entitled to aid to county roads under this Act, may include the maintenance by the county of a ferry service which forms a connecting link of a county road system, or forms a link between county road systems of adjacent counties, and may also include the cost of purchasing, establishing and equipping such ferry service, but when so aided, the equipment, service, and tolls therefor, shall be subject to the regulations and approval of the Department. R.S.O. 1927, c. 54, s. 21.

County expenditure may include ferry service.

**23.—**(1) The council of a county while carrying on work under this Act may by by-law assume,—

Cost of bridges.

(a) any bridge on a boundary line, or any road used in lieu thereof, between local municipalities in the county, or on county boundary lines, or any road used in lieu thereof, other than bridges in cities or separated towns;

(b) any bridge within a local municipality of a county that has been declared a county bridge in accordance with section 469 of *The Municipal Act*;

Rev. Stat., c. 266.

and when the by-law has been approved by the Minister the expenditure involved in the replacing or improving of any such bridge in accordance with the plan approved by the Department shall be deemed to form part of the expenditure in carrying out the plan of highway improvement within the county, and debentures issued by the corporation of any county since the 8th day of April, 1926, for the purpose of constructing, replacing or improving any such bridge shall be legal, valid and binding upon the corporation of the county and the ratepayers thereof notwithstanding that such by-law has not been submitted to and did not receive the assent of the ratepayers in accordance with the provisions of *The Municipal Act*. R.S.O. 1927, c. 54, s. 22 (1).

Rev. Stat., c. 266.

(2) The Minister may direct the payment to the corporation out of the Fund of an amount equal to forty per centum of the cost of constructing, replacing or improving such bridge in accordance with the plan approved by the Department. 1930, c. 10, s. 3.

Aid to bridges.

(3) The council of a county may by by-law declare that all bridges of twenty feet or less in span which have been assumed by the county under the provisions of subsection 1 shall revert to the local municipalities in which the same are situate and thereupon all the property rights, liabilities and

Bridges reverting to township under county by-law.

obligations of the county with respect to such bridges shall be transferred to and shall be vested in and imposed upon such municipalities in which such bridges are situate.

Further aid where bridges of twenty feet or under revert.

(4) Where all bridges of twenty feet or less in span have reverted to local municipalities under subsection 3 the Minister may direct the payment to the corporation of the county out of the Fund of a sum equal to fifty per centum of the expenditure involved in the constructing, improving or replacing of any bridges of over twenty feet in span assumed by the county.

Diverting road to avoid construction of bridge.

(5) The council of a county where it deems it expedient and with the approval of the Lieutenant-Governor in Council may by by-law provide for the closing of any such bridge entirely or the substitution therefor of any other structure and for that purpose shall possess and may exercise as to such bridge or other structure and the approaches thereto all the powers of the council of a county as to highways and bridges included in a county road system. R.S.O. 1927, c. 54, s. 22 (3-5).

Bridges reverting to townships.

(6) To remove doubts, it is declared that any by-law of the council of a county passed under this section shall have effect notwithstanding anything contained in the provisions of *The Municipal Act* respecting highways and bridges. 1928, c. 18, s. 2.

Rev. Stat., c. 266.

Intersection of other highways by county road.

**24.** Where a county road intersects a highway which is not a county road the continuation of the county road to its full width across the road so intersected, including the bridges and culverts thereon or touching thereon, shall be a part of the county road system except in the case of an intersection by a county road of the King's Highway, and in that case the full width of the intersection shall be deemed to be part of the King's Highway as provided by section 55. R.S.O. 1927, c. 54, s. 23.

Sidewalks excepted.

**25.** The corporation of a county shall not by reason of assuming a highway under this Act be liable for the building, maintenance or repair of sidewalks on any county road or portion thereof. R.S.O. 1927, c. 54, s. 24.

Contribution of cities, etc., to improvement of county roads.

**26.** When any highway leading or adjacent to any town separated from the county is or is to be assumed, purchased, expropriated, widened, straightened, reconstructed or otherwise improved or requires the expenditure of a greater amount for maintenance and repair to meet the requirements of increased, heavy, constant or other extraordinary traffic to or

from the town, beyond the requirements which, but for the existence of such town, would be deemed those of a standard highway for the locality, the corporation of the town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the corporation of the county to contribute such additional cost, or a proper proportion of the cost, or that the amount of the contribution of the town shall be determined by arbitration under *The Municipal Act*, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the corporation of the county for the payment of such amounts in annual instalments to be raised by annual special rate upon the rateable property in the city or town. R.S.O. 1927, c. 54, s. 25.

**27.**—(1) The council of a township, town or incorporated village may enter into an agreement with the council of the county or suburban roads commission providing for the widening of the right-of-way, or for the construction of a wider pavement or other special construction upon a county road in such township, town or incorporated village, and the agreement may provide that the cost of the work over and above the amount paid by the county under the provisions of this Act and amendments thereto shall be assessed under and according to the provisions of *The Local Improvement Act* against the owners to be specially benefited and against the township, town or incorporated village respectively according to the report of an engineer. R.S.O. 1927, c. 54, s. 26 (1); 1931, c. 11, s. 5 (1).

(2) The council of the township, town or incorporated village may pass by-laws to raise by debentures, payable in not more than twenty years such sum as may be necessary to meet such excess cost and such debentures shall be a debt payable by the corporation, but the rate for the payment of any debentures so issued shall be levied and collected upon and from the property liable to assessment in the said township, town or incorporated village according to the assessment made by such engineer and it shall not be necessary to obtain the assent of the electors to any such by-laws nor observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1927, c. 54, s. 26 (2); 1931, c. 11, s. 5 (2).

(3) The excess cost of any widening or special construction under this section over and above the amount paid by the corporation of the county shall not be deemed to form part of the expenditure for which the corporation of the county is

Rev. Stat.,  
c. 266.

Agreement  
between  
local muni-  
cipality and  
county for  
extra con-  
struction  
work.

Rev. Stat.,  
c. 269.

Debentures  
for excess  
cost to local  
municipality.

Rev. Stat.,  
c. 266.

Excess cost  
not to be  
credited to  
county in  
naming  
subsidy.

entitled to aid under this Act. R.S.O. 1927, c. 54, s. 26 (3); 1929, c. 17, s. 3.

Where improved highway ceases to be important.

**28.** Where the Minister is of opinion that any highway or section of a highway assumed by a county council under this Act, has ceased to be, or for some other reason is not of sufficient importance to be constructed and maintained as a county road, such highway or section thereof may be struck off the approved plan of county roads by the Lieutenant-Governor in Council, and such highway or section thereof shall thereupon revert to the corporation of the local municipality in which the same is situate. R.S.O. 1927, c. 54, s. 27.

Urban extension or connecting roads.

**29.—(1)** Where a street in any urban municipality not separated from the county is not a part of the county road system but is an extension of or connects different portions of roads included in the county road system, the county shall construct or improve the roadway on such street to the extent of twenty feet in width and shall assume the cost thereof, and the expenditure thereon, to the extent approved by the Minister, shall form part of the expenditure in carrying out the plan of highway improvement in the county for the purpose of ascertaining the amount of aid which may be granted to the county under this Act, but no such work shall be performed by the county unless and until an agreement has been entered into with such urban municipality. R.S.O. 1927, c. 54, s. 28 (1).

Extent of liability of county.

Cost of work,—proportion to be part of county expenditure.

Extent of liability of urban municipality.

**(2)** Where the roadway on such street exceeds twenty feet in width all expenditure thereon rendered necessary by such excess width and all other special work on the street shall be borne by the urban municipality, and the council of the urban municipality, with the approval of the Minister may by by-law provide for the issue of debentures to provide for the payment of such excess cost, and may apply the rebate payable under subsection 5, or so much thereof as may be necessary in payment of sums falling due from year to year on account of such debentures, and it shall not be necessary to obtain the assent of the electors to any such by-law nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or the work may be undertaken as a local improvement under the provisions of *The Local Improvement Act*. R.S.O. 1927, c. 54, s. 28 (2); 1930, c. 10, s. 4; 1931, c. 11, s. 6 (1).

Rev. Stat., c. 266.

Rev. Stat., c. 269.

Agreement to be entered into.

**(3)** The corporation of the urban municipality shall not proceed with the work until an agreement with the county has been entered into in such form as the Minister may prescribe or approve. R.S.O. 1927, c. 54, s. 28 (3).



(4) Where any street described in subsection 1 is part of the county road system, the council of the county shall under-<sup>Where urban street forms part of county system.</sup> take the work as agreed upon with the council of the municipality and the urban municipality shall pay its proportion of the cost of the work to the county upon the report of the county road superintendent and the requisition of the county road committee and may raise its share of the cost of the work by the issuing of debentures without the assent of the electors. R.S.O. 1927, c. 54, s. 28 (4); 1931, c. 11, s. 6 (2).

(5) An urban municipality situate within a county, but not separated therefrom for municipal purposes, whether there is or is not any such county road extension or connection in such urban municipality, shall be subject to the annual general levy for county road purposes under the by-law mentioned in section 12, but the council of the county shall on or before the 1st day of April in each year remit, in the case of a town, fifty per centum, and in the case of a village, seventy-five per centum, of the amount raised by such rate in the town or village in the previous year less the cost of the repairs, if any, done by the county upon such county road extension or connecting link or upon any road in such urban municipality included in the county road system during the previous year, and where the road in the urban municipality is not a part of the county road system the cost of repairs on such roads shall be borne by the county and urban municipality in such proportions as shall be provided for by an agreement entered into and approved by the Minister before the work is commenced:

(a) Any moneys so received by the town or village shall be expended under the supervision of the county road superintendent upon streets in the municipality designated by the Minister, provided that where the Minister is of the opinion that it is unnecessary to expend the whole or any part of the moneys so received upon streets in the municipality, he may direct that the whole or any portion of such moneys may be applied in payment of any outstanding debentures issued to provide for paving streets in the municipality;<sup>How moneys to be expended.</sup>

(b) Vouchers for all moneys expended by any town or village under the provisions of clause a shall be submitted to the county treasurer during the calendar year in which such moneys were received, and the provisions of subsection 1 of section 18 shall apply to all such expenditures;<sup>Vouchers to be submitted to county treasurer.</sup>

When  
rebate not  
to be made.

(c) No such rebate shall be made for any year during which the construction or rebuilding of any such extension or connecting link has been in progress;

Rebate on  
road work  
in towns and  
villages.

(d) In determining the amount of such rebate payable in the year 1931 and thereafter, the amount raised by the corporation of a town or village for the purpose of paying off its share of any debenture debt of the county shall not be considered. 1935, c. 25, s. 6.

Refund by  
county to be  
part of  
expenditure  
on system.

(6) Subject to the provisions of subsection 5, the amount so repaid by the county shall be deemed to form part of the expenditure in carrying out a plan of highway improvement in the county for the purpose of ascertaining the amount of aid which may be granted to the county under this Act.

Proviso  
as to  
application  
of sub-  
section 5.

(7) The provisions of subsection 5 shall not apply to an urban municipality which is receiving, or has heretofore received under an agreement with the county council special grants for the purpose of road improvement in the urban municipality until the calendar year following that in which such agreement expires. R.S.O. 1927, c. 54, s. 28 (6, 7).

Disputes as  
to mainten-  
ance, etc., of  
bridges and  
highways.

Rev. Stat.,  
c. 266.

**30.**—(1) Sections 488 and 490 of *The Municipal Act* shall not apply to a bridge or highway crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case have adopted a plan for the improvement of highways pursuant to the provisions of this Act, and such plan includes such bridge or highway.

Disputes as  
to county  
boundary  
lines and  
bridges.

(2) Whenever there is a difference between two or more municipalities in respect of any such bridge or highway as to the corporation upon which the obligation rests, as to the building, maintaining or keeping in repair of such bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the councils of two or more municipalities are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Ontario Municipal Board upon an application by any corporation interested in such bridge or highway.

Hearing by  
Ontario  
Municipal  
Board.

(3) The Board shall appoint a day for the hearing of such application, of which ten days' notice in writing shall be given to the clerk of each municipality interested and shall, at the time and place appointed, hear and determine all matters in difference between the said municipalities in regard to such

bridge or highway, and the board may make such order in regard to the same as it may deem just and proper, and may by such order fix and determine the amount or proportion which each municipality shall pay or contribute toward the building, maintaining and keeping in repair of such bridge or highway.

(4) An order made by the Board under this section shall be and remain binding upon all the municipalities interested for such period as the board may determine. R.S.O. 1927, c. 54, s. 29. Term of order.

**31.** A county council shall in respect to county roads have all the powers conferred on townships, cities, towns and villages under Part II of *The Snow Roads and Fences Act*. R.S.O. 1927, c. 54, s. 30. Powers as to snow fences. Rev. Stat. c. 291.

**32.** The corporation of the county shall, in respect to the roads included in a county road system, have all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise, upon the corporation of the local municipality or the corporations of the local municipalities which had jurisdiction over such roads before they were assumed by the corporation of the county, and the corporation of the county may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the local municipality or municipalities might have done if such roads had not been adopted as county roads. R.S.O. 1927, c. 54, s. 31. Powers of county council over roads assumed.

**33.** Where, in the exercise of its powers or in the performance of its obligations under this Act, the corporation of a county finds that it is necessary to expropriate land for the purpose of opening up, widening, improving, protecting from erosion, altering or diverting a county highway, the corporation may, instead of the procedure provided by *The Municipal Act*, proceed in the manner provided by *The Public Works Act* in the case of lands taken by the Minister of Public Works and Highways for the purposes of Ontario without the consent of the owner of such lands, and the provisions of *The Public Works Act* shall *mutatis mutandis* apply, and the powers and duties of the Minister of Public Works and Highways, as set out in the said *The Public Works Act* may be exercised and performed in the name of the corporation of the county. R.S.O. 1927, c. 54, s. 32; 1930, c. 10, s. 6; 1931, c. 11, s. 7. Procedure on expropriation of land. Rev. Stat. cc. 266, 54.

**34.** The plan and description of the lands taken, required by section 17 of *The Public Works Act*, to be deposited in the registry office, shall be signed by the warden and treasurer of Plan and description, filing of.

the county, or by an Ontario land surveyor, and upon the deposit of the said plan and description the land shall become and be vested in the corporation of the county. R.S.O. 1927, c. 54, s. 33.

Agreement  
with Indian  
Department  
for roads on  
reserves.

**35.** The Minister may enter into an agreement with the Department of Indian Affairs of the Government of Canada for the construction and improvement under the supervision of the Department of Highways and in accordance with the regulations and specifications of the Department of a road in any township or any portion of a township constituting an Indian reserve where such road forms an extension of or connecting link in a county road system and for the payment, upon the certificate of the Minister, of fifty per centum of the cost of any work done under such agreement, such payment to be chargeable to the Highway Improvement Fund in the same manner and subject to the like provisions as set out in section 18. R.S.O. 1927, c. 54, s. 34; 1931, c. 11, s. 8.

### PART III.

#### SUBURBAN ROADS.

System of  
suburban  
roads under  
commission.

**36.** The Lieutenant-Governor in Council, upon application of the council of any county having or adopting a system of county roads under this Act, may direct that a commission or commissions be selected as in section 42 provided, in the case of each city or town separated from the county, and it shall be the duty of the commission or commissions to designate and define the suburban roads or portions thereof in the county system towards the construction and maintenance of which the city or town shall contribute. R.S.O. 1927, c. 54, s. 35.

Roads to be  
county  
roads.

**37.**—(1) Roads designated as “suburban roads” shall continue to be county roads under the jurisdiction and control of the county council, the work thereon to be under the supervision of the county engineer or road superintendent but subject to the direction of the commission appointed for that purpose, and the sums expended for construction, maintenance and superintendence may be included in the statements of expenditure as provided in section 18, upon which the grants payable by the Province will be estimated and paid. R.S.O. 1927, c. 54, s. 36 (1); 1931, c. 11, s. 9 (1).

Engineer  
of commis-  
sion may  
super-  
vise  
work on  
suburban  
roads.

(2) The work on suburban roads may be carried on under the supervision of a qualified engineer employed for that purpose by the commission in place of the county road superintendent, and all the provisions of this Act and regulations



made under the said Act shall apply to such engineer in the same manner as to a county road superintendent, and the certificate of such engineer with respect to work and expenditure upon suburban roads under the jurisdiction of the Minister shall be accepted in lieu of the declaration of the county road superintendent as required by section 18. R.S.O. 1927, c. 54, s. 36 (2).

**38.**—(1) Subject to the provisions of the following subsections, expenditure upon all work upon suburban roads outside the limits of a city or town shall be borne by the county, city or town and the Province, in the proportion of twenty-five per centum by the county, twenty-five per centum by the city or town and fifty per centum by the Province.

Contribution to suburban roads.

(2) Except as provided in subsection 3, the amount to be contributed by the city or town shall not exceed the proceeds of an annual rate of one-half mill on the dollar of the value of the rateable property of the city or town, according to the last revised assessment roll.

Limit of contribution of city or town.

(3) The council of any city or separated town, where a commission has been directed as provided by section 36, may in any year, by a by-law passed by a vote of at least two-thirds of the members present and voting thereon, appropriate for work upon suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar on the value of the rateable property in such city or town according to the last revised assessment roll; but such by-law shall not be passed until the council of the county shall have appropriated an equal amount for the like purposes to be expended in the same year.

Additional contribution by city or town.

(4) Roads designated as suburban roads by the commission appointed as provided by this Act, shall be maintained and repaired from the time of such designation at the cost of the Province and of the corporations in the proportions fixed by subsection 1.

Maintenance and repair from time of designation.

(5) An appropriation for the purposes mentioned in this section may be made by resolution of the council of the county and may be made before the designation by the commission of the roads upon which the appropriation is to be expended. R.S.O. 1927, c. 54, s. 37.

Appropriation may be by resolution of any council.

**39.** It shall be the duty of the clerk of the county to notify the city or town of the amount appropriated by the county for construction and maintenance not later than the 1st day of March in each year, and the treasurer of the city or town shall transmit the equivalent amount, not later than

Notice to city or town by county clerk.

the 1st day of November following, to the treasurer of the county by whom it shall be paid to the order of the commission. R.S.O. 1927, c. 54, s. 38.

Provision  
for contribu-  
tion by city  
or town to  
suburban  
roads.

**40.**—(1) It shall be the duty of the council of each city or town to provide annually or from time to time an amount equal to that appropriated by the council of the county for construction and maintenance of such suburban roads, and such amount shall be a debt due to the county by the city or town.

Issue of  
debentures  
for city's or  
town's  
share.

(2) For the purposes of this section the city or town shall have authority to raise from time to time such sums as may be required for construction by the issue of debentures, as in section 14 provided, but all sums required for the purposes of maintenance and repair shall be provided from the current revenue of the municipality. R.S.O. 1927, c. 54, s. 39.

Issuing city  
or town  
debentures  
for county  
suburban  
roads.

(3) Where it appears that the rate of one-half mill on the dollar provided for in subsection 2 of section 38 is not sufficient to carry out permanent or extensive work, the council of the city or town with the approval of the Minister may raise such further sums by the issue of debentures as may be deemed necessary, and may apply a portion of the proceeds of the said annual rate of one-half mill on the dollar, on paying off such debentures.

Assent of  
electors not  
required.

(4) It shall not be necessary to obtain the assent of the electors to any by-law for the issue of debentures under this section, nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*. 1930, c. 10, s. 7.

Rev. Stat.,  
c. 266.

Informalities  
not to  
invalidate  
proceedings.

**41.** No error or omission or insufficiency in the procedure provided for by this Act shall relieve a corporation of a county or of a city or separated town from liability to contribute towards the construction and maintenance of suburban roads designated by the commission as provided by this Act, and the treasurer of a city or town which is liable to contribute towards the construction and maintenance of suburban roads, as provided in this Act shall, not later than the 1st day of November in every year, forward to the treasurer of the county an amount equal to the amount appropriated by the council of the county for the construction and maintenance of such suburban roads in that year; but the amount of such contribution shall be limited as provided by section 38. R.S.O. 1927, c. 54, s. 40.

Commission.

**42.**—(1) The laying out, construction, maintenance and repair of county roads within the suburban area outside of

any city or town and the expenditure thereon, shall be directed by a commission representing the county and the city or town and appointed as hereinafter provided.

(2) In the case of a town or of a city having a population of less than 50,000, the commission shall be composed of three persons, one to be appointed by the council of the city or town, one by the council of the county, and the third to be agreed upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant-Governor in Council.

How composed in case of a town or of a city of less than 50,000.

(3) In the case of a city having a population of 50,000 or over, the commission shall be composed of two members to be appointed by the council of the city, two by the council of the county and one to be agreed upon by the members so appointed, and in default of such agreement to be appointed by the Lieutenant-Governor in Council.

City of 50,000 or over.

(4) The councils of the city, town and county shall make their appointments of members to the commission, upon receipt of notice from the clerk, within thirty days after the passing of the Order-in-Council.

Time for making appointments.

(5) The members so appointed to a commission shall hold office for a term of five years from the date of the Order-in-Council authorizing the commission and no longer, and at the expiration of the said period and thereafter at the expiration of every period of five years, the members of the commission shall be appointed as in this section provided, but any member of the commission shall be eligible for reappointment.

Term of office.

(6) Where the council of a city, town or county fails to make any appointment of a commissioner as in this section provided, such appointment may be made by the Lieutenant-Governor in Council.

Appointment to commission where county, city or town makes default.

(7) A member of the commission appointed by the council of the county, city or town, may be removed and another commissioner appointed in his place by a vote of two-thirds of the members of the council present and voting thereon at any regular meeting of the council, provided that notice of the intention of the council to determine the question of such removal has been given at the next preceding meeting of the council.

Removal of suburban road commissioners.

Proviso.

(8) Where a member for the commission dies, or resigns, or is removed, the body or authority by which such member was appointed shall appoint some other person to fill the

Vacancies.

vacancy for the remainder of the term for which such person so dying, resigning or removed was appointed.

Incorporation and name.

(9) Every commission constituted under this section or under section 36 shall be a body corporate, and the name by which each such commission is to be designated shall be fixed by the Lieutenant-Governor in Council.

Deposit of plan in Department.

(10) A plan and description of the system of suburban roads designated by the commission shall be deposited by the commission in the Department within six months from the date of the Order-in-Council, authorizing such commission, and after the approval thereof by the Minister no alterations or amendment thereof shall be made by the commission until approved in a like manner. R.S.O. 1927, c. 54, s. 41.

Member of municipal council not eligible as member of commission.

Rev. Stat., c. 266.

**43.** Notwithstanding anything contained in *The Municipal Act*, or in any other general or special Act of this Legislature, or in any municipal by-law, a person who is a member or an official of a municipal council shall not be a member of any commission appointed under section 42. R.S.O. 1927, c. 54, s. 42; 1930, c. 10, s. 8.

Extension of suburban area into another county.

**44.** In the case of a city having a population of 50,000 or over, the suburban area may be extended beyond the county in which the city is situate and may include roads outside of the county the improvement of which will be of benefit to the city. R.S.O. 1927, c. 54, s. 43.

## PART IV.

### TOWNSHIP ROADS.

Township road superintendent, appointment and salary.

**45.**—(1) The council of any township municipality in which statute labour has been abolished by by-law shall, by by-law, appoint a township road superintendent who, subject to the direction of the council, shall lay out and supervise all work and inspect all roads within the exclusive jurisdiction of the township council, and the Minister may direct that out of the Fund fifty per centum of the salary and expenses of such superintendent paid by the township shall be reimbursed by the Province.

By-law for appointment.

(2) A copy of the by-law of the municipality making such appointment shall be transmitted to the Department within thirty days of the passing thereof, and shall be subject to the approval of the Minister and when so approved shall not be repealed or amended without the consent in writing of the Minister.



(3) The superintendent appointed under this section shall conform to such general regulations as the Department may prescribe. Superintendent to obey regulations.

(4) The council of any township in which statute labour has been abolished by by-law may annually submit to the Department a statement showing the amount of salary or wages so paid under this section, together with the declaration of the treasurer that such statement is correct and also the declaration of the superintendent that he has *bona fide* performed the duties of the superintendent, and on receipt of such statement and certificates, certified by the proper officer of the Department, the Minister may direct the Treasurer of Ontario to pay to the corporation of such municipality the amount to which the municipality may be entitled under this Act. Annual statement to Department.

(5) A member of the council of any local municipality in the county shall not be appointed or act as road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed or who acts or is employed in contravention of this section shall forfeit his seat and be disqualified from sitting in the council of which he was a member at the time of his appointment or employment. R.S.O. 1927, c. 54, s. 44. Councillors disqualified as township road superintendent.

(6) Where a township receives aid from the Province in excess of sixty per centum of the cost of the work done upon any township road, the Minister may, if he deems it expedient so to do, appoint a road superintendent for the purpose of overseeing the work to be undertaken and in that case it shall not be necessary for the council of the township to appoint a road superintendent and the superintendent appointed by the Minister shall possess and exercise as to the work all the powers of a township road superintendent appointed in accordance with subsection 1. 1928, c. 18, s. 4. Appointment of township road superintendent.

**46.**—(1) The council of a township which has abolished statute labour and in which money is not being expended under *The Colonization Roads Act* may submit to the Department for approval such plans, specifications or by-laws as the department may require for any or all of the following purposes of road construction, improvement or repair, namely,— Grants in aid of township road work.

(a) grading;

(b) drainage for road purposes;

(c) gravelling, metalling with broken stone, or the construction of any approved kind of road surface; Rev. Stat., c. 35.

- (d) dust prevention, by oiling, tarring or other approved means;
- (e) the systematic maintenance or repair by dragging, gravelling or other approved means;
- (f) the construction, reconstruction or substantial improvement of culverts, bridges and approaches thereto;
- (g) the opening of a new road or the relocating, widening or straightening of any existing road;
- (h) the purchase of gravel pits, stone quarries, materials, equipment and machinery;
- (i) such other purposes of highway improvement as the Minister may approve. R.S.O. 1927, c. 54, s. 45.

Submission  
of by-law  
covering  
estimated  
expenditure.

(2) The council of a township shall submit a by-law covering the estimated expenditure on all road construction, improvement or repairs for the calendar year to the Department for the approval of the Minister not later than the 28th day of February of the year in which such expenditure is to be made and no subsidy shall be granted to any township in respect of work which has not been provided for by a by-law approved by the Minister. 1935, c. 25, s. 7.

Township  
road  
subsidy.

**47.**—(1) When approved by the Department the work or expenditure of any class mentioned in section 46 shall be carried out in accordance with the regulations of the Department with regard thereto, and upon the completion of any such work or expenditure, the council of the township may submit to the Department an application for a provincial subsidy equivalent to forty per centum of the amount of the township funds expended thereon; but where the Minister deems it necessary in order to secure the development of an adequate plan of road construction, he may recommend that there be paid to the township such an additional amount as he may deem requisite, but the total aid so granted in any one year shall not exceed eighty per centum of the amount of the township's funds so expended, and such additional aid shall be in lieu of any other grant to which the township may be entitled under any other Act:

Cost of  
ferry service  
may be  
included.

- (a) Where the township is an island, in estimating the amount of aid to which the township may be entitled under this Part, there may be included the whole or such proportion as the Minister may direct, of the

cost of the establishing and maintenance of a ferry service between the island and the mainland by the municipal corporation of the township or its lessee or licensee. 1930, c. 10, s. 9.

(2) The Minister may arrange with the Department of Indian Affairs of the Government of Canada that the Indian Agent for the reserve may act as road superintendent to supervise the construction, improvement and maintenance in accordance with the regulations and specifications of the Department of Highways, of the roads in any township or any portion of the township constituting an Indian reserve, whereupon the subsidy towards road expenditure as authorized by this Act representing township roads may be available under like conditions to roads in the said Indian Reserve, and upon the approval of the Minister the provisions of section 51 shall be applicable thereto. R.S.O. 1927, c. 54, s. 46 (2).

Roads on Indian reserves,—arrangements with Dominion.

48. The application of the township council shall include the following particulars,—

Particulars to be furnished.

- (a) a statement of the expenditure in such detail as the Department may require;
- (b) a resolution of the township council endorsing such statement and authorizing the reeve and clerk to sign and submit it to the Department; R.S.O. 1927, c. 54, s. 47, cls. (a, b).
- (c) the declaration of the township treasurer that the statement of expenditure is true and correct and that it contains no item of expenditure whether for labour or materials for which actual cash was not paid to the persons performing the work or supplying the materials; R.S.O. 1927, c. 54, s. 47, cl. (c); 1935, c. 25, s. 8.
- (d) the declaration of the township road superintendent that the work has been carried out, or the expenditure made in accordance with the approval given by the Department, and in accordance with the regulations of the Department. R.S.O. 1927, c. 54, s. 47, cl. (d).

49. Upon receipt of the application and the approval thereof by the proper officer of the Department, the Minister may direct payment to the township treasurer of the amount of the subsidy and such amount shall be payable out of the Consolidated Revenue Fund, and shall be chargeable to the

Amount of provincial subsidy.

Highway Improvement Fund Account. R.S.O. 1927, c. 54, s. 48.

What amount not to be included in fixing subsidy.

**50.** Expenditure in respect of which aid may be granted under section 49 shall not include any amount levied in the township for county road purposes or any other road expenditure towards which a contribution has been paid, or may be payable from any source except where a contrary provision is contained in any agreement entered into between the township and the Province. R.S.O. 1927, c. 54, s. 49; 1935, c. 25, s. 9.

Vouchers.

**51.** Wherever a subsidy is applied for by any county or township, under any provision of this Act, vouchers covering all expenditures in respect of which such subsidy is applied for shall be furnished to the Department in a form satisfactory to the Minister. 1935, c. 25, s. 10.

Different rates in summer resort or suburban areas.

**52.** The council of a township which has by by-law abolished statute labour and

(a) in which subdivisions have been laid out, or,

(b) portions of which are used or occupied as summer resorts or are adjacent to a city,

may by by-law separate such subdivisions or portions for the purposes of taxation under this Act from the remainder of the township by defining the limit of such subdivisions or portions and in imposing the township rate for road purposes may impose and levy a higher rate upon such subdivisions or portions than upon the remainder of the township, but no such by-law shall have effect until the same has been approved of in writing by the Minister and the amount raised by increasing such rate shall not be included in estimating the expenditure of the township for the purpose of any grant out of the Fund. R.S.O. 1927, c. 54, s. 51.

## PART V.

### THE KING'S HIGHWAY.

Highways may be assumed by the Province.

**53.—(1)** The Lieutenant-Governor in Council, upon recommendation of the Minister, may designate any highway or a system of public highways throughout Ontario to be laid out, acquired, constructed, assumed, repaired, relocated, deviated, widened and maintained by the Minister for Ontario as the King's Highway. R.S.O. 1927, c. 54, s. 52 (1); 1935, c. 25, s. 11.



(2) Every highway heretofore or hereafter constructed, designated and assumed in accordance with this section shall be known as "the King's Highway." 1930, c. 10, s. 11, *part*.  
"The King's Highway."

**54.** The King's Highway and all property acquired by Ontario under this Act shall be vested in His Majesty and shall be under the control of the Department. R.S.O. 1927, c. 54, s. 53; 1935, c. 25, s. 12.  
Vested in His Majesty.

**55.**—(1) Subject to the provisions of section 60, when the Minister desires to lay out a portion of the King's Highway or to acquire any existing highway under the authority of this Act, either temporarily or permanently, he shall deposit in the proper registry office a plan and description of the highway, signed by himself, or by the Deputy Minister, or by an Ontario land surveyor, and such highway shall thereafter become and be vested in the Crown as from such date as the Minister may determine, by notice in the *Ontario Gazette*, and the Department shall give notice in writing thereof to each of the municipalities interested. R.S.O. 1927, c. 54, s. 54 (1); 1935, c. 25, s. 13 (1).  
Procedure for acquiring a highway.

(2) Wherever a highway assumed, acquired or laid out as one of the King's Highways, intersects a highway which is not one of the King's Highways, the continuation of the King's Highway to its full width across the highway so intersected, including bridges and culverts thereon, shall be a part of the King's Highway. 1935, c. 25, s. 13 (2).  
The King's Highway.

(3) Whenever for the purposes of this section it is deemed advisable to deposit in any registry office a preliminary route plan of any highway or lands acquired or to be acquired therefor by the Minister, such preliminary route plan shall be of full effect as provided by subsection 1, and shall confer upon the Minister authority to acquire and take possession of the road or lands, but such plan may at any time thereafter be replaced by a completed plan and description of the road or lands so acquired. 1935, c. 25, s. 13 (3).  
Preliminary route plan.

**56.** Notwithstanding anything in any other Act contained an original road allowance which has not been opened, or which has been occupied or partly occupied by an abutting owner or other person may be entered upon, taken, used and occupied for the purposes of the King's Highway provided that where any person shall have acquired the title to any land taken under this section, he shall be entitled to the like compensation as in the case of land expropriated for the purposes of the King's Highway. R.S.O. 1927, c. 54, s. 55.  
Right to open up and use original road allowance.

Property  
may be  
acquired  
or expro-  
priated.

**57.** The Minister may, for and in the name of His Majesty, purchase or acquire, and subject as hereinafter mentioned may, without the consent of the owner thereof, enter upon, take and expropriate any land or property which he may deem necessary for the use or purposes of the Department or for making compensation in whole or in part, to any person whose land or property has been entered upon, taken, expropriated or acquired under this Act. R.S.O. 1927, c. 54, s. 56; 1931, c. 11, s. 10.

Land or  
property  
may be  
acquired.

**58.** The Minister may acquire either alone, or jointly with a municipal corporation or corporations, such land or property as may be deemed necessary for procuring stone, gravel or other material for use in making, maintaining or repairing the King's Highway, or any other highway, or otherwise deemed necessary for the use of the Department. R.S.O. 1927, c. 54, s. 57.

Property  
may be  
sold.

**59.—(1)** All property, real or personal, no longer required for the use of the Department, may be sold, leased or disposed of by the Minister.

Highway  
may be  
disposed of  
or may  
revert to  
municipal-  
ity.

**(2)** The Lieutenant-Governor in Council upon the recommendation of the Minister may direct that any highway or portion or section thereof for which an alternative route has been substituted, or which is no longer required by the Department for the purpose of the King's Highway, or which from any cause should not remain under the jurisdiction of the Minister, may be closed to traffic or may be sold, leased or disposed of by the Minister, or may direct that any such highway, or portion or section of a highway, shall revert to the municipality previously liable for the maintenance and repair of the highway, or within which the same is situate, and such municipal corporation shall thereupon be in possession and control of the said highway from and after a date to be named by the Lieutenant-Governor in Council. R.S.O. 1927, c. 54, s. 58.

Public  
Works Act  
to apply.

**60.—(1)** When a highway which is a toll road, not under the immediate control of a municipal corporation, or other land or property is to be entered upon, taken or used by the Department under the compulsory powers conferred by this Act, the Minister shall proceed in the manner provided by *The Public Works Act*, and the provisions of that Act, sections 8 to 38, inclusive, except as in this Act otherwise provided, shall apply, *mutatis mutandis*, to the Department and the officers thereof. R.S.O. 1927, c. 54, s. 59 (1).

Rev. Stat.,  
c. 54.

Notice as to  
land entered  
upon, taken  
or used.

**(2)** Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this

Act the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon him or by mailing by registered post addressed to him at his last known place of abode, a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description, and stating that every person having any claim to compensation must file the same in the office of the Minister within six months after such registration, or, in the case of land injuriously affected, within six months after the injury complained of, or in the case of a continuing injury, within one year from the time when the injury began or became known to him; or
- (b) if the owner is unknown or his residence is unknown, by the publication of a similar notice once a week for at least three weeks in some newspaper having a general circulation in the county or district in which the land affected is situate. 1935, c. 25, s. 14 (1).

(3) When land is to be or has been purchased or acquired by the Minister under any of the powers conferred by this Act, along or adjacent to or in the vicinity of the King's Highway, the land so acquired may be shown on a plan of the highway marked "Land Plan," signed by the Minister or by the Deputy Minister and deposited in the proper registry office, and such plan shall be of full effect in establishing the ownership of such lands by Ontario under any of the provisions of this Act or of *The Public Works Act*. R.S.O. 1927, c. 54, s. 59 (2). Filing "Land Plan" on taking land. Rev. Stat. c. 54.

(4) A land plan deposited in any registry office as in subsection 3 provided may be amended upon the authority of the Minister or Deputy Minister from time to time, or another or similar plan may be substituted therefor upon like authority, for the purpose of showing land or additional lands purchased or acquired, or for the purpose of indicating thereon lands sold or disposed of by the Minister. R.S.O. 1927, c. 54, s. 59 (3); 1935, c. 25, s. 14 (2). Amendment of land plan.

**61.** The cost of material, labour, special engineering or other services, land and property or options thereon, plant, machinery and equipment and the repair and maintenance of plant, machinery or equipment and all expenditure in How cost to be provided.

or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the Fund set apart out of the Consolidated Revenue Fund under this Act upon the certificate of the Minister, and for that purpose accountable cheques may from time to time be issued against such Fund in favour of the Department upon the requisition of the Minister therefor. R.S.O. 1927, c. 54, s. 60.

Deductions from grants on default in municipal contributions.

**62.** Where a corporation of a county or other municipality, park commission, board or commission is in default with respect to any payments due to the Province for their share of the expenditure on the King's Highway up to the 31st day of December, 1934, the amount of the arrears shall bear interest from the date of such default at such rate of interest as the Minister may from time to time determine, and the amount of the arrears and interest may be deducted from any sums due to the county or municipality by the Province. 1935, c. 25, s. 15, *part*.

Contributions by commission or other controlling body.

**63.** Where a road assumed as the King's Highway under this Act was at the time it was so assumed under the control of a park commission, or any board or commission established by statute and having authority over the area in which the road lies, the amount or proportion of expenditure may be apportioned by the Minister to and shall be a debt due to Ontario from such park commission, board or commission and shall be payable out of the revenues of such commission. 1935, c. 25, s. 15, *part*.

Provision for payment.

**64.** It shall be the duty of such park commission, board or commission to provide for the payment of any contribution required under section 63 in its estimates of annual expenditure, and every such park commission, board or commission shall have power to do all things necessary to provide for the payment of such contribution, and where authorized by statute to levy rates upon property within its jurisdiction, shall levy all necessary rates for the purposes hereof, anything in any Act under which such park commission, board or commission is established to the contrary notwithstanding. 1935, c. 25, s. 15, *part*.

Proportion of cost, debt due Province.

**65.** The proportion of cost, as estimated under sections 63 and 64 shall be a debt due to Ontario by such park commission, or other board or commission and shall be paid to the Department within six months from the date of notification sent by registered post to such board or commission. 1935, c. 25, s. 15, *part*.



**66.**—(1) The proportion of expenditure on repair and maintenance to be paid by the municipal corporation shall in all cases be provided out of the general funds of the municipality, but expenditure for construction may be met by the issue of debentures under the provisions of *The Municipal Act*. Payment out of general funds for maintenance. Rev. Stat., c. 266.

(2) The council of each municipality may pass by-laws for issuing and may issue its debentures maturing within a period not exceeding twenty years from the date of issue of the debentures and payable in any manner provided by *The Municipal Act*, for an amount estimated as sufficient to produce the sum required to pay the share of the expenditure for construction apportioned to the municipality and it shall not be necessary to obtain the assent of the electors to any by-law for the issue of such debentures nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1927, c. 54, s. 65 (2, 3). Issue of debentures by municipalities. Rev. Stat., c. 266.

(3) Where it is deemed by the Minister desirable and expedient that a highway or portion thereof within a city, town or village, including any necessary bridges, should be constructed as a connecting link between portions of the King's Highway, the Department may designate such highway or portion thereof within the city, town or village to be constructed by the city, town or village, and the council of the corporation of the city, town or village may pass by-laws for issuing, and may issue debentures under the provisions of *The Municipal Act*, to be payable in such period as the Department may approve but not exceeding twenty years at the furthest from the time or times when such debentures are issued, for an amount sufficient to pay the cost of the construction of the highway and bridges within the said city, town or village, but it shall not be necessary for the council to obtain the assent of the electors to any by-law for the issue of debentures under this subsection nor to observe the formalities in relation thereto prescribed by *The Municipal Act*. Continuing King's Highway through city, town or village. Rev. Stat., c. 266.

(a) Work required to be constructed under this subsection may be undertaken as a local improvement under *The Local Improvement Act* and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the corporation at large as the council may deem proper. R.S.O. 1927, c. 54, s. 65 (4); 1935, c. 25, s. 16 (2). Rev. Stat., c. 269.

(4) Where it is deemed by the Minister desirable and expedient an agreement may be entered into with the corporation of an urban municipality not separated from the county, for the construction, improvement, maintenance and repair Agreement for work on connecting roads for highway.

therein by the municipality or by the Department of any highway which is a connecting link or extension of the King's Highway. 1930, c. 10, s. 12.

Cost of  
work.

(5) The proportion of the cost agreed upon shall be paid out of the Fund and the remainder shall be borne and paid by the town or village providing, however, that in the case of a town or village having a population of not more than 2,500, the proportion of the cost of such work payable out of the Fund shall not exceed a sum equal to the cost of the travelled portion of the King's Highway of the existing width where it approaches such town or village, and in the case of towns other than separated towns having a population of more than 2,500, the proportion of the cost of such work payable out of the Fund shall not exceed fifty per centum of the cost of such work up to a width of thirty feet and the cost of all work in excess of such width shall be payable by such town. 1935, c. 25, s. 16 (3).

Duty of  
maintenance.

(6) A road shall not by reason of its having been constructed or improved under this section become or be the property of the Crown, but every such road after its construction or improvement shall be under the jurisdiction of the council of the municipality in which it is situate and shall be maintained and kept in repair in the same manner as other roads in the municipality. R.S.O. 1927, c. 54, s. 65 (7).

Highway  
may be  
closed to  
traffic.

**67.**—(1) While the construction, repair or improvement or any work authorized by this Act is in progress on the King's Highway the Minister or any engineer authorized by him may close the highway or any portion thereof to traffic for such time as he may deem necessary, and any person using a highway so closed shall do so at his own risk, and shall not have a right to recovery of damages in case of accident or injury.

Penalty for  
removing  
notice or  
barrier.

Rev. Stat.,  
c. 136.

(2) Every person who uses any highway so closed to traffic or who removes or defaces any notice or obstruction placed thereon by lawful authority shall incur a penalty not exceeding \$50, recoverable under *The Summary Convictions Act*, and shall also be liable for any damages or injury done to the highway or to the property of the Department occasioned by such trespass.

Alternative  
routes dur-  
ing work  
on roads.

(3) While the construction, repair or improvement of the King's Highway or any work authorized by this Act, is in progress on the King's Highway, the Department may provide and keep in repair a reasonable alternative route or routes for traffic, including a municipal highway, or may enter into

an agreement with the council of any municipality, or may make a grant to any municipality for that purpose, and any expenditure or grant under this section shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary. R.S.O. 1927, c. 54, s. 66.

**68.**—(1) The Department shall have and may exercise within the limits of any municipal corporation along the course of the roadway all the powers which may be exercised by a municipal corporation authorized to lay out, maintain and construct a highway.

Department may exercise powers of municipal corporation.

(2) The Department shall, in respect to the King's Highways under its jurisdiction, have all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the local or county municipality or municipalities which had jurisdiction over the said road before the said road was assumed by the Province, and the Department may sue upon such rights or under such agreement or by-laws in the same manner and to the same extent as the said local municipality or municipalities might have done if such road had not been adopted as the King's Highway.

Previous rights and agreements.

(3) Where a by-law, contract, or agreement covers several roads in a municipality, including the road adopted as the King's Highway, the Department shall be entitled to a copy of such by-law, contract or agreement from the municipality or municipalities and the Department shall have the right to inquire into and ascertain facts concerning all such by-laws, contracts or agreements, the amounts of rents or other payments provided for in the same, the terms and conditions under which such agreements are made and any other particulars in connection with the same. R.S.O. 1927, c. 54, s. 67.

Right of Department to copies of by-laws, etc..

**69.** Notwithstanding anything in any general or special Act or in any by-law, resolution, license of occupation, agreement or other act of a municipal corporation, no street railway or electric railway shall be laid down, constructed or operated upon the King's Highway except with the consent of the Lieutenant-Governor in Council and under and subject to such terms and conditions as he may impose, but this section shall not apply to any railway or part of a railway now in operation, and shall not be construed to affect or prejudice the rights, franchises and privileges of any company owning or operating such railway; provided that such company shall not move its rails to or upon the highway except with the consent of the Minister. R.S.O. 1927, c. 54, s. 68.

Electric and street railway.

Proviso.

Pavement  
between  
rails of  
street or  
electric  
railway.

**70.**—(1) Where a street railway or electric railway has constructed its line upon any part of the King's Highway and has undertaken or is required by law to fill in or pave the space between the rails of the street railway or electric railway, the Department may construct the pavement or roadway between the rails of the same material and in the same manner as on that part of the roadway lying on either side of the rails, and so much of the cost of the work between the rails as will equal what should be expended by the company in the fulfilment of its legal obligations shall be paid by the company to the Department upon demand.

Fixing con-  
tribution by  
company.

(2) In determining the amount payable by the company, allowance shall be made for the relief of the company from the work of keeping the space between the rails filled in or paved and the substitution of a durable pavement for such work.

Application  
to Board  
in case of  
disagree-  
ment.

(3) If the company and the Department are unable to agree on their respective shares of the cost of constructing the pavement or roadway between the rails the matter in dispute shall be determined by the Ontario Municipal Board and the decision of the Board shall be final and shall not be subject to appeal. R.S.O. 1927, c. 54, s. 69.

Planting  
trees on  
highways.

**71.**—(1) The Department may plant trees upon the King's Highway, and the cost thereof shall be part of the cost of repair and maintenance.

Cutting  
trees, etc.,  
on the  
King's  
Highway.

(2) No person, corporation or commission shall injure, destroy, cut or prune any tree within the limits of the King's Highway, without the consent of the Department first had and obtained, and any sums received in compensation for trees so injured, destroyed, cut or pruned, shall be payable to the Department.

Bonus for  
planting  
trees on  
highways.

(3) The Department may pay a bonus not exceeding seventy-five cents for each elm, maple or other approved nut or ornamental tree planted by any owner of land fronting on the King's Highway and planted in accordance with the regulations of the Department and under its direction.

Bonus to  
be charge-  
able to  
Fund.

(4) The bonus shall be chargeable to the Fund and payable upon a certificate of the resident engineer of the Department giving the name of the person entitled to such bonus, the number of trees of each species planted and the amount of the bonus to which such person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form.



(5) The Lieutenant-Governor in Council upon the recommendation of the Minister may fix the distance from the roadway at which fences, buildings or other structures may be placed and also the distance from the roadway at which trees, shrubs or hedges may be planted.

Location  
of fences,  
buildings,  
etc.

(6) The Minister may agree with the owners or occupants of property adjoining the King's Highway, with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may make compensation therefor.

Fences.

(7) The Minister may direct the removal of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the highway where in his opinion the safety or convenience of the travelling public so requires, or when any such object might cause the drifting or accumulation of snow or is injurious to the roadbed, but subject to the payment of such compensation as may be agreed upon or as may be determined in the manner provided by section 60. R.S.O. 1927, c. 54, s. 70.

Removal  
of obstruc-  
tions ad-  
jacent to  
highway.

**72.**—(1) Where it is deemed advisable to change the grade or make other alterations upon any road intersecting or affording access to the highway, or giving access to private property, the cost of any changes so made shall be part of the cost of the construction of the King's Highway, and shall be borne and paid accordingly.

Grading  
approaches  
to King's  
Highway.

(2) A municipality shall not close or divert any road or road allowance entering or touching upon or giving access to the King's Highway without the consent of the Lieutenant-Governor in Council upon the report of the Minister. R.S.O. 1927, c. 54, s. 71.

Consent to  
closing of  
road con-  
necting with  
King's  
Highway.

**73.** Notwithstanding anything in any general or special Act contained, no municipal corporation, commissioners acting for a municipal corporation, and no commission, company or individual shall obstruct or deposit material upon, nor shall they enter upon, take up or in any way interfere with the King's Highway for the purpose of laying down or repairing any drain, sewer, water pipe, gas pipe, conduit or any other structure beneath the surface of the highway, except with the consent of the Minister and under and subject to such terms and conditions as to the manner and location of the work, the times at which it is to be performed, the disposal of material, and the replacing of the surface as the Minister may prescribe:

Laying  
pipes, etc.

- (a) Any person who violates any of the provisions of this section shall incur a penalty of not less than \$50 and not more than \$1,000. R.S.O. 1927, c. 54, s. 72.

Regulating  
traffic.

**74.**—(1) The Minister may make regulations respecting the use of the King's Highway by any class of vehicles or animals, and may impose penalties for violation thereof, but no such regulations shall have any force or effect until approved by the Lieutenant-Governor in Council after notice to the municipal corporation affected thereby.

Application  
of fines.

(2) Notwithstanding anything in any other Act contained, all fines and penalties recovered for offences committed on the King's Highway under this Act or *The Highway Traffic Act*, and the fees to which any constable acting thereunder is entitled shall, when collected, belong to and be paid to the Department.

Rev. Stat.,  
c. 288.

Horses,  
cattle, etc.,  
on highway.

(3) Every person who being the owner of horses, cattle, swine or sheep, suffers or permits the same or any of them to run at large within the limits of the King's Highway, shall be guilty of an offence and shall incur a penalty not exceeding, for every horse found at large upon the highway, \$5; for every head of cattle found at large upon the highway, not more than \$3; and for every hog, sheep or goat found at large upon the highway, not more than \$1. R.S.O. 1927, c. 54, s. 73.

Department  
to maintain  
and repair.

**75.**—(1) Every portion of the King's Highway shall be maintained and kept in repair by the Department, and except as to the contribution towards such maintenance and repair provided for in this Act, the corporation of any municipality in which the highway is situate shall be relieved from any liability therefor, but this shall not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by the corporation of any municipality, or which a municipal corporation may lawfully do or construct upon the highway, and such municipal corporation shall be liable for want of repair of such sidewalk, municipal undertaking or work, whether the same be the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by such municipal corporation.

Liability for  
damages in  
case of  
default.

(2) In case of default by the Department to keep any portion of the King's Highway in repair, the Department shall be liable for all damages sustained by any person by reason of such default, and the amount recoverable by any person by reason of such default may be agreed upon with the

Department before or after the commencement of any action for the recovery of such damages.

(3) No action shall be brought for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained. Limitation of action.

(4) No action shall be brought for the recovery of the damages mentioned in subsection 2, unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the Department, within ten days after the happening of the injury. Notice of claim.

(5) The failure to give or the insufficiency of the notice shall not be a bar to the action, if the court or judge before whom the action is tried, is of the opinion that there is reasonable excuse for the want or insufficiency of the notice, and that the Department was not thereby prejudiced in its defence. When failure to give notice not to bar action.

(6) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of any claim for damages which has been approved of by counsel in writing, shall be payable in the same manner as in the case of a judgment recovered against the Crown in any other action. R.S.O. 1927, c. 54, s. 74 (1-6). Judgment, how payable.

(7) In any action under this section against the Department, the defendant may be described as "His Majesty the King in right of the Province of Ontario, represented by the Minister of Highways for the Province of Ontario," and it shall not be necessary to proceed by petition of right or to procure the fiat of the Lieutenant-Governor or the consent of the Attorney-General before commencing such action but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of His Majesty against another subject. R.S.O. 1927, c. 54, s. 74 (7); 1932, c. 53, s. 5. Style of action.

(8) Actions against the Department for the recovery of the damages mentioned in subsection 2 shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which such default occurred. Action to be tried without jury.

(9) The liability imposed by this section shall not extend to any case in which a municipal corporation owning or having jurisdiction over the highway would not have been liable for the injury sustained. R.S.O. 1927, c. 54, s. 74 (8, 9). Liability not to exceed that of municipality.

Agreement for construction of greater width of pavement in any municipality.

**76.**—(1) The corporation of any municipality, through or in which any part of the King's Highway is situate or any owner of abutting property may enter into an agreement with the Department for the construction of a pavement or roadway of a greater width or with different specifications to those for the remainder of the roadway, and the Department may construct a pavement or roadway of such additional width or varied specification through the municipality or such portion thereof as may be agreed upon.

Raising cost of special work on the King's Highway in urban municipality.

Rev. Stat., c. 269, 266.

(2) The additional cost entailed under such agreement to be borne by a municipal corporation may be raised by such corporation by a special tax or by the issue of its debentures under *The Local Improvement Act* or by the issue of debentures under *The Municipal Act*, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures provided that it shall not be necessary to obtain the assent of the electors to any by-law for the issue of such debentures under *The Municipal Act*, nor to observe any of the provisions of *The Local Improvement Act* with respect to the undertaking of works as local improvements. R.S.O. 1927, c. 54, s. 75.

Construction of works for transportation of materials.

**77.** The Minister may construct and operate such works upon any highway leading to or in the neighbourhood of the King's Highway as he may deem necessary or expedient for the purpose of transportation of materials or supplies, or he may agree or contract with any railway or other company so to do, or may lease or acquire land or property and construct and operate works thereon for such purposes. R.S.O. 1927, c. 54, s. 76.

Drainage of the King's Highway.

Rev. Stat., c. 350.

**78.**—(1) The Deputy Minister or any officer of the Department specially designated for that purpose by the Deputy Minister, may initiate and carry out proceedings under *The Ditches and Watercourses Act* for the purpose of procuring proper drainage for the King's Highway, and shall have authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where a private person is the initiating party, in accordance with the procedure prescribed by *The Ditches and Watercourses Act*, but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Department.

Drainage engineer for Department.

Rev. Stat., c. 350.

(2) The Minister or Deputy Minister may from time to time designate an engineer or engineers of the Department to be the engineer or engineers authorized to carry out the provisions of *The Ditches and Watercourses Act* with respect to



the King's Highway or other property under the control of the Department, and the person so designated shall have all powers and perform all duties on behalf of the Department required of an engineer appointed by a municipality under the said Act. R.S.O. 1927, c. 54, s. 77.

**79.**—(1) Notwithstanding anything in this Act or in *The Public Works Act* contained where any claim is made for damages or compensation in respect of land affected or taken or in respect of any work constructed or in course of construction, or as to the right of the Department to do or undertake any work under this Part, or in respect to any injury alleged to have been done to any person or property in the course of anything done or purporting to be done under the provisions of this Part, no action or other proceeding shall lie in respect of such matter but the same shall be heard and determined by the Ontario Municipal Board.

Reference of claims, etc., to Ontario Municipal Board.  
Rev. Stat., c. 54.

(2) No such action or other proceeding shall lie in respect of any such claim unless notice in writing of the claim and of the injury complained of has been filed with the Department within six months after the injury complained of, or in the case of a continuing injury, within one year from the time when the injury began or became known to the complainant.

Limitation of claims for compensation.

(3) Section 89 shall apply to any such action or proceeding. 1928, c. 18, s. 6 (1); 1929, c. 17, s. 6.

Application as to s. 89.

## PART VI.

### PROVISIONS APPLICABLE TO ALL HIGHWAYS.

#### *Sign Boards.*

**80.**—(1) The Lieutenant-Governor in Council upon the recommendation of the Minister may make regulations,—

Regulations as to sign-boards, etc.

- (a) prohibiting or regulating the erection of signs and sign boards and the pasting or painting of signs or notices and the exposing of any advertising device upon or within one-quarter of a mile from the King's Highway;
  - (b) for licensing and fixing the fees for licenses to be granted to any person for erecting any such sign or sign board, or pasting or painting any such sign or notice or exposing any such advertising device on any such road or within one-quarter of a mile thereof;
- Prohibiting and regulating.  
Licensing and fixing license fees.

Application  
of fees.

- (c) for the application of such fees or any part thereof to the maintenance of such road or otherwise; 1931, c. 11, s. 11, *part*.

Regulating  
the placing  
of gasoline  
pumps.

- (d) for regulating the distance from the limit of the King's Highway or any highway to which the Ontario Government gives aid, at which gasoline pumps may be placed and operated, and for directing the removal of any such pump placed or operated within such distance;

Licensing  
gasoline  
pumps.

- (e) for licensing and fixing the fees for licenses to be granted to any person operating a gasoline pump upon or within twenty-five feet from the limit of the King's Highway or any highway to which the Ontario Government gives aid. 1935, c. 25, s. 17.

Powers conferred by  
subs. 1 to be  
exercised by  
county council  
with respect to  
county and  
suburban  
roads.

- (2) The powers conferred on the Lieutenant-Governor in Council by subsection 1 may, with respect to county and suburban roads, be exercised by the county council, but no by-law passed by a county council under this subsection shall have effect until approved in writing by the Minister. 1931, c. 11, s. 11, *part*.

Penalty  
for contra-  
vention.

- (3) Any person contravening any such regulation or destroying or defacing any sign, signboard, notice or advertising device lawfully authorized under this Act, shall incur a penalty of not less than \$1, nor more than \$100, in addition to the value of the property injured or destroyed, to be recoverable under *The Summary Convictions Act*.

Rev. Stat.,  
c. 136.

Commission  
may be  
authorized  
to exercise  
powers.

- (4) The powers conferred upon the Lieutenant-Governor in Council by this section may be exercised by any commission or board having the control of the road if the Lieutenant-Governor in Council so directs. R.S.O. 1927, c. 54, s. 78 (2, 3).

Authority  
of engineer  
or road  
superintendent  
with regard to  
drainage.

Rev. Stat.,  
cc. 350, 278.

**81.** The engineer or road superintendent appointed by any road authority under this Act may without any direction from the Department or resolution of the council or commission by which he is appointed, as the case may be, initiate and carry out proceedings under *The Ditches and Watercourses Act* and may sign petitions under *The Municipal Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction of the road authority, and such engineer or superintendent shall have authority to file or receive notices as owner in accordance with the procedure prescribed by the said Act. R.S.O. 1927, c. 54, s. 79.

**82.**—(1) Notwithstanding anything in *The Municipal Act* contained, the engineer or road superintendent appointed by a county council, or by any commission or by a township council may, without the passing of a by-law or resolution by the council, apply to the owner of any gravel land or gravel pit in the county for gravel for road purposes.

Obtaining gravel for road purposes.  
Rev. Stat., c. 266.

(2) The engineer or road superintendent shall state in his application the price per cubic yard or per acre of such amount of gravel as he may require.

Application to state price offered.

(3) If the owner does not, within three days after receiving such application, agree with the engineer or road superintendent to sell the gravel or the land and as to the price at which the same shall be sold, the engineer or road superintendent may, upon seven days' notice in writing to the owner, apply to the county judge in the county in which the gravel or the land is situate, for an order fixing the price to be paid for the gravel or the land, and the judge upon such application and upon hearing such evidence as he deems necessary, may fix the price per cubic yard or per acre to be paid for the gravel or the land and may order and direct that upon the payment or tendering of the price so fixed, the engineer or road superintendent, by his servants or agents, may enter upon the lands of the owner and take the gravel so required.

Application to county judge to fix price.

(4) *The Judges' Orders Enforcement Act* shall apply to any application or order made under this Act.

Rev. Stat., c. 123.

(5) There shall be an appeal from the order of the judge of the county court to the Court of Appeal, whose decision shall be final. R.S.O. 1927, c. 84, s. 80.

Appeal.

**83.**—(1) While the construction, repair or improvement of any road to which this Act applies is in progress, the road superintendent, or any person authorized by him, may close the highway or any portion thereof to traffic for such time as he may deem necessary and subject to the provisions hereinafter contained any person using a highway so closed shall do so at his own risk and shall not have a right to recovery of damages in case of accident or injury.

Power to close highways while undergoing construction or repairs.

(2) Upon closing any highway as provided herein it shall be the duty of the corporation or commission to provide and keep in repair a reasonable alternative route for through traffic and to provide a suitable by-road for all owners who cannot obtain access to their property by any other public road, and for the period during which such highway or portion thereof is close the alternative route and by-road shall be

Alternative route to be provided.

under the jurisdiction of the council of the corporation or commission.

Erection of  
barricades  
and detour  
signs.

(3) The engineer or road superintendent or the person authorized by him shall upon closing a highway or portion thereof protect the same by erecting or causing to be erected at each end of the highway so closed and where the alternative route deviates therefrom, a substantial barricade upon which shall be exposed and kept burning continuously from sunset until dawn, a red light, and at such points shall put up a detour sign indicating the alternative route and containing a notice of closing the highway for traffic.

Penalties.

(4) Any engineer or road superintendent or any person authorized by him who closes any highway or portion thereof to traffic, and who neglects or fails to erect or maintain the barricade, light, notice or detour sign aforesaid while such road is closed and any person who uses any highway so closed while the same is protected as aforesaid without authority from the engineer or road superintendent, or who removes or defaces any barricade, light, detour sign or notice, shall incur a penalty not exceeding \$10, recoverable under *The Summary Convictions Act*, and such person so wrongfully using the highway so closed shall also be liable for any damage or injury done to the highway occasioned by such trespass.

Rev. Stat.,  
c. 136.

Application  
of section  
to special  
cases.

(5) This section shall apply to any road as to which provision has been made under any special Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 54, s. 81.

Repair and  
maintenance  
of highway  
by Depart-  
ment on  
corporation's  
default.

(6) Where the district engineer reports to the Department that a road to which this Act applies in any municipality is out of repair, the Minister may, after at least two months' notice in writing to the corporation of the municipality, direct the Department to undertake the work of putting such road in repair, and the cost of such work shall be chargeable to and shall be a debt due from the corporation of the municipality to the Crown and the Minister may direct that such cost shall be deducted from any sums of money payable to the municipality under this Act. 1929, c. 17, s. 7.

Excavated  
material  
from drains.

Rev. Stat.,  
cc. 278, 350.

**84.** Notwithstanding the provisions of any other Act, no earth, debris, or excavated material from a drain constructed, improved or repaired under the provisions of *The Municipal Drainage Act* or *The Ditches and Watercourses Act*, or any other Act shall be deposited within the limits of any highway



without express permission in writing so to do from the road authority responsible for the maintenance of such road or highway. R.S.O. 1927, c. 54, s. 82.

**85.**—(1) The council of a local municipality may construct or put down a sidewalk or other improvement or service on a country road, the King's Highway or a road or highway under the control of a board, special commission, suburban road commission or other authority, but no such work shall be undertaken by a municipal corporation or any individual or company without first obtaining the written consent of the county council, Department of Highways, board, special commission, suburban road commission or other authority having control of the said road or highway.

Local municipalities may construct sidewalks, etc.

(2) The cost of any sidewalk constructed on a county road, the King's Highway, or a road or highway under the control of a board, special commission or other authority, may be met out of the general funds of the local municipality, or out of funds of the authority having control of the said road or highway, or the work may be undertaken as a local improvement to which the provisions of *The Local Improvement Act* shall apply.

How cost provided.  
Rev. Stat., c. 269.

(3) A local municipality when constructing a sidewalk or other improvements or service on a road or highway under the provisions of this section shall conform to any requirements, regulations or conditions imposed by the authority responsible for or having control of the said road or highway, and shall be responsible for any injury or damage arising from the construction or presence of such walk on the road or highway. R.S.O. 1927, c. 54, s. 83.

Local municipality to conform to regulations and be responsible for damages.

(4) The council of a township may apply to the Department for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Department may grant such authority, and upon the completion of the work may approve of the same at its discretion, and upon such approval being given the Minister may authorize the payment to the township out of the Fund of an amount not exceeding forty per centum of the cost of the work. 1928, c. 18, s. 7; 1931, c. 11, s. 12.

Sidewalks and footpaths on the King's Highway,

**86.** The council of any municipality or a suburban road commission may plant trees on any road under its jurisdiction, and the cost of such work shall be deemed to be part of the cost of repairing and maintaining such highway. R.S.O. 1927, c. 54, s. 84.

Planting trees on highway.

Agreement  
with owner  
for removal.

**87.**—(1) The engineer or road superintendent appointed by a council or commission under this Act with the approval of the council or commission having jurisdiction over the highway may enter into an agreement with the owner of any lands adjacent to a highway under the jurisdiction of the council for the removal of any tree, shrub, brush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on the highway, or on lands adjoining the highway and which may cause the drifting or accumulation of snow or may injuriously affect the highway or obstruct the vision of pedestrians or drivers of vehicles upon the highway.

Compensa-  
tion.

(2) The engineer or road superintendent may, with the approval of the council or commission having jurisdiction over the highway, enter into an agreement with the owner of the lands as to the amount of compensation to be paid to such owner for damages caused to him by reason of such removal. R.S.O. 1927, c. 54, s. 85 (1, 2).

Application  
to judge for  
order to  
remove.

(3) Where the engineer or road superintendent is of the opinion that any tree, shrub, brush, hedge, fence, signboard, gasoline pump, building or other object growing or standing upon a highway, or on lands adjacent to the highway, will cause the drifting or accumulation of snow or is injurious to the road-bed or is a dangerous obstruction to the vision of pedestrians or drivers of vehicles on the highway, and he is unable to agree with the owner of such lands for the removal of the same, or as to the amount of compensation to be paid therefor, the engineer or road superintendent may, with the approval of the council or commission having jurisdiction over the highway, apply to the judge of the county court of the county in which the lands affected are situated, and upon such notice to the owner of the lands affected as the judge may direct for an order granting authority to the engineer or road superintendent to enter upon the lands affected and to remove any object with respect to which the application is made, and the judge, upon such application, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion may be equitable. R.S.O. 1927, c. 54, s. 85 (3); 1929, c. 17, s. 8

Application  
of Rev.  
Stat.,  
c. 123.

(4) *The Judges' Orders Enforcement Act* shall apply to every order made under subsection 3.

By-laws for  
clearing  
adjacent  
land.

(5) The council of a county or township may by by-law determine and fix the distance from the centre line of any public highway within the jurisdiction of the council within which the owner of any lands adjacent to the highway shall not plant

or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, signboard, building or other structure which may cause the drifting or accumulation of snow or which may injuriously affect the road-bed of the highway or dangerously obstruct the vision of drivers of vehicles or pedestrians thereon. R.S.O. 1927, c. 54, s. 85 (4, 5).

**88.**—(1) The council of a municipality which is not separated from the county, with the approval of the Minister, may make an agreement with the road authority having the control of a portion of the King's Highway, county highway or suburban road for the widening of such highway in the municipality and may make a further agreement with such road authority and any municipal corporation or commission interested in the highway or suburban road and with any municipal corporation, commission or company owning or operating a street railway or electric railway on the highway, fixing the proportions in which the cost of such widening and of the removal or replacing or altering of the tracks of such street railway or electric railway consequent upon such widening shall be borne by such municipality, the road authority, any municipal corporation or commission interested in the highway and by the municipal corporation, commission or company owning or operating such street railway or electric railway.

Agreement  
for widening  
the King's  
Highway,  
county or  
suburban  
road in  
township.

(2) Where such municipality, the road authority and the municipal corporation, commission or company owning or operating a street railway or electric railway are unable to agree as to the proportion in which each of them shall so contribute the same shall be determined by the Ontario Municipal Board and the decision of the Board shall be final.

Apportioning  
cost.

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway, the municipality may pass by-laws for acquiring by purchase or otherwise, or for expropriating any land described in such agreement or necessary to carry out the provisions thereof, and the provisions of *The Municipal Act*, as to the acquiring, occupying or taking of land for municipal purposes shall apply to the acquiring, occupying or taking of land under such by-law.

By-law for  
acquiring  
land.

Rev. Stat.,  
c. 266.

(4) Any county not being in control of the highway, but through which such highway passes may agree to contribute to the cost of the widening of such highway but nothing in this section contained shall be deemed to render it compulsory upon such county to so contribute. R.S.O. 1927, c. 54, s. 86.

Voluntary  
contribu-  
tions from  
municipal-  
ities.

Decision of  
Board to  
be final.

**89.** Where by this Act an appeal lies from any report or decision or other Act or order or decision to the Ontario Municipal Board, the decision of the Board shall be final and conclusive, and shall not be subject to an appeal. R.S.O. 1927, c. 54, s. 87.

Aid to  
commissions  
governing  
certain  
localities.

**90.** A commission appointed under any statute of Ontario for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipal council with respect to the construction or improvement of roads shall have the like rights and powers and shall perform the like duties and be entitled to the same aid as the council of a township under the provisions of this Act. 1928, c. 18, s. 8 (1).

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## CHAPTER 57.

### The Public Service Works on Highways Act.

1. In this Act,—

Inter-pretation.

- (a) "Appliances and works" shall mean and include "Appliances and works." poles, wires, conduits, transformers, pipes and pipe lines and any other works, structures or appliances placed on or under a highway by an operating corporation;
- (b) "Operating corporation" shall mean and include a "Operating corporation." municipal corporation or commission and a company or individual operating or using a telephone or telegraph service, or transmitting, distributing or supplying electricity or artificial or natural gas for light, heat or power and shall include The Hydro-Electric Power Commission of Ontario;
- (c) "Road authority" shall mean and include the De- "Road authority." partment of Highways, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor. R.S.O. 1927, c. 56, s. 1; 1929, c. 19, s. 2.

2. Subject to the provisions of section 3, where in the course of constructing, reconstructing, changing, altering or improving any highway it becomes necessary to take up, remove or change the location of appliances or works placed on or under the highway by an operating corporation, the road authority and the operating corporation may agree upon the apportionment of the cost of labour employed in such work and in default of agreement the cost of such work shall be apportioned equally between the road authority and the operating corporation, but such costs shall not include the replacement or renewal of the appliances or works nor the cost of any materials or supplies, nor any other expense or loss occasioned to the operating corporation. R.S.O. 1927, c. 56, s. 2. Cost of removal of appliances and works on alteration in highway.

Apportion-  
ment of cost  
of moving,  
etc., public  
service  
works on  
highways.

**3.** Notwithstanding anything in section 2 where it is made to appear to the Ontario Municipal Board, upon application made to it, that the circumstances and conditions under which any of the appliances or works mentioned in the said section 2 have been placed on or under a highway, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location of such works should be apportioned and paid as provided in section 2, the Board, upon the application of the road authority or operating corporation may apportion the cost of the taking up, removing or changing the works in such manner as may appear to it to be equitable, and the decision of the Board shall be final and shall not be subject to appeal. R.S.O. 1927, c. 56, s. 3.

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## CHAPTER 58.

## The Interprovincial Drainage Act.

1. Wherever for the purpose of securing better drainage it is deemed necessary or expedient to extend drainage works from Ontario into or through lands in an adjoining province, or to extend a drainage work from an adjoining province, into or through lands in Ontario, the Lieutenant-Governor in Council may authorize the Minister of Public Works to enter into an agreement with a designated officer of the adjoining province as to the proportion of the cost of the work in the adjoining province to be borne and paid by Ontario and as to the proportion of the cost of the work in Ontario to be borne and paid by the adjoining province. 1932, c. 52, s. 2.

2. Where a drain extends from an adjoining province into and through lands in Ontario the Minister of Public Works may order the municipality into which the drain extends to provide for the construction of the necessary drainage work and thereupon all the provisions of *The Municipal Drainage Act* shall apply *mutatis mutandis* to such drain and the contribution to the work from the other province shall be paid to such municipality on the proper completion of the work. 1932, c. 52, s. 3.

3. Where a drain extends from Ontario into and through lands in an adjoining province, the Minister of Public Works may order the municipality in Ontario in which the lands affected by the drainage work are situate, to provide funds to pay for the proportion of the cost of the work in the adjoining province to be borne and paid by Ontario, and thereupon all the provisions of *The Municipal Drainage Act* shall apply *mutatis mutandis* to such drain. 1932, c. 52, s. 4.

## 4. MUNICIPAL AFFAIRS.

## CHAPTER 59.

## The Department of Municipal Affairs Act.

Interpreta-  
tion.

## 1. In this Act,—

“Board.”

(a) “Board” shall mean the Ontario Municipal Board;

“Depart-  
ment.”

(b) “Department” shall mean the Department of Municipal Affairs;

“Deputy  
minister.”(c) “Deputy minister” shall mean the Deputy Minister of Municipal Affairs; 1935, c. 16, s. 2 (*a-c*).“Local  
board.”(d) “Local board” shall mean and include any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of police commissioners and any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof; 1935, c. 16, s. 2 (*d*); 1936, c. 15, s. 2.

“Minister.”

(e) “Minister” shall mean the Minister of Municipal Affairs;

“Municipal-  
ity.”

(f) “Municipality” shall mean a county, city, town, village or township, and shall include the corporation thereof, and for the purposes of this Act shall include every local board thereof;

“Public  
utility.”

(g) “Public utility” shall mean and include any water-works, gasworks, including works for the transmission, distribution and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, any telephone system, any street or other railway system, any bus or other public transportation system and any other works or system for supplying the inhabitants generally with necessities or conveniences which are vested in or



owned, controlled or operated by a municipality or municipalities or by a local board. 1935, c. 16, s. 2 (e-g).

2.—(1) There shall be a Department of Municipal Affairs, over which the Minister shall preside. Establishment of Department.

(2) A deputy minister of the Department shall be appointed by the Lieutenant-Governor in Council. Deputy minister.

(3) The Lieutenant-Governor in Council may also appoint such officers, clerks and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department. 1935, c. 16, s. 3. Staff.

3.—(1) The Department shall administer all Acts in respect to municipal institutions and affairs, including *The Ontario Municipal Board Act*. Jurisdiction. Rev. Stat., c. 60.

(2) The Department shall administer such other Acts as may be provided herein and as may from time to time be designated by the Lieutenant-Governor in Council. Other statutes.

(3) The Department shall exercise general oversight over municipal institutions and their administration and such special oversight and powers in relation thereto as may be provided in or under the authority of this or any other general or special Act; provided that nothing herein contained shall be deemed to divest the Board of any jurisdiction or powers conferred on it by this or any other Act. 1935, c. 16, s. 4. Municipal affairs.

4. *The Ontario Housing Act, 1919*, and *The Municipal Housing Act, 1920*, and amendments thereto, respectively, shall be administered by the Department, and for the purposes of the said Acts and the regulations made thereunder, the deputy minister shall hereafter be the director named and referred to in such acts. 1935, c. 16, s. 5. Housing Acts. 1919, c. 54, 1920, c. 84.

5. The Department shall submit to the Lieutenant-Governor in Council an annual report upon the affairs and work of the Department, and such report shall be laid before the Assembly within twenty-one days after the commencement of the next session. 1935, c. 16, s. 6. Annual report.

6. The deputy minister and such of the officers of the Department who may be authorized thereto by the Lieutenant-Governor in Council shall for any of the purposes of the Department or of any Act which it administers, have and may exercise the same powers as a commissioner under *The Public Inquiries Act*. 1935, c. 16, s. 7. Powers of inquiry. Rev. Stat., c. 19.

## PART II.

Transfer of  
Bureau of  
Municipal  
Affairs.

7.—(1) The jurisdiction formerly exercised by the Bureau of Municipal Affairs and transferred by Part IV of *The Ontario Municipal Board Act, 1932*, to the Board, is hereby transferred to the Department, which shall exercise jurisdiction over all the matters formerly assigned to the said bureau.

Transfer of  
staff.

(2) All the officers, clerks and servants of the said former bureau in office at the time this Act comes into force are hereby transferred to and shall be officers, clerks and servants of the Department as if appointed thereto by the Lieutenant-Governor in Council. 1935, c. 16, s. 8.

Municipal  
accounting  
system.

8. The Department shall have power to,—

(a) prescribe and regulate the system of estimates, book-keeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for;

Municipal  
returns.

(b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Department, annually, periodically or otherwise, and the times when and by whom they shall be made;

Municipal  
audit.

(c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties;

Compiling  
statistics,  
etc.

(d) collect, compile, analyze and record such statistical and other information relating to the financial and other affairs of municipalities as may be useful;

Publishing  
reports, etc.

(e) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of dis-

seminating information and advice in relation to municipal affairs as may be useful;

- (f) study, report and advise upon the system of municipal institutions and the government and administration of municipal affairs; Report on municipal government, etc.
- (g) perform and do all things necessary or incidental to any of the aforesaid purposes; Incidental powers.
- (h) effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information; Advisory powers.
- (i) inquire at any time into any or all of the affairs, financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interest of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations. 1935, c. 16, s. 9. Power of investigation.

**9.** The Department may, with respect to any of the matters mentioned in clauses *a*, *b* and *c* of section 8, prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. 1935, c. 16, s. 10. Variations in systems and forms.

**10.** Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local board of which such municipality or local board is one. 1935, c. 16, s. 11. Duty of members of council, local boards and their officers.

**11.** A municipality which has adopted a system of estimates, book-keeping, accounting or auditing which the Department is satisfied to approve may continue such system until otherwise directed by the Department and until such time it shall not be necessary for the municipality to comply with any system prescribed under this part. 1935, c. 16, s. 12. Adoption of other satisfactory system of accounting, auditing, etc.

All returns  
to be made  
to the  
Department.

**12.—**(1) All returns required by any Act to be made to the Secretary of the Bureau of Industries or to the Bureau of Municipal Affairs shall be made to the Department.

Change of  
references.

(2) Where in any Act reference is made to the Director of the Bureau of Municipal Affairs such reference shall be deemed to be made to the Department. 1935, c. 16, s. 13.

Provincial  
municipal  
audit.

When  
ordered.

**13.—**(1) The Department, upon its own initiative or whenever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than fifty ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

Extent of  
audit.

(2) Any direction given by the Department may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or to any specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Department. 1935, c. 16, s. 14.

Appoint-  
ment of  
auditor.

**14.** An audit directed to be made under this Part may be made by any officer of the Department, or by a competent auditor appointed by the Minister, and the officer and person so appointed shall for the purposes of such audit have all the powers mentioned in section 15. 1936, c. 15, s. 3.

Powers of  
auditor  
with  
respect to  
an audit.

**15.** For the purposes of any audit the officer of the Department or other person appointed to make the audit may require the production of all or any books, records and documents which may in any way relate to the affairs of the municipality, the subject of the audit, and inspect, examine and audit and copy the same and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs and for such purpose shall have the same powers as a commissioner under *The Public Inquiries Act*. 1935, c. 16, s. 16.

Rev. Stat.,  
c. 19.

Report on  
audit.

**16.** Upon completion of an audit under this Part the auditor shall report thereon in writing to the deputy minister, who shall forthwith transmit a copy of the report to the municipality. 1935, c. 16, s. 17.

Powers of  
Department  
as a result of  
an audit.

**17.** The Department, as a result of any audit of the affairs of a municipality made under this Part, may make such orders



as it may see fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit may have disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Department may provide. 1935, c. 16, s. 18.

**18.** The Department may fix the fees and allowances for expenses payable with respect to any audit of the affairs of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. 1935, c. 16, s. 19.

Fees for audit.

**19.** Nothing in this Part contained shall give to the Department any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon The Hydro-Electric Power Commission of Ontario. 1935, c. 16, s. 20.

Exception as to municipal hydro-electric commissions.

**20.** Nothing in this Part shall affect or impair any security given by any officer of a municipality for the due and faithful performance of the duties of his office, nor relieve his sureties from liability in case of his default therein, nor shall anything in this Part relieve any municipality from its duty to appoint competent auditors. 1935, c. 16, s. 21.

Obligations of officers' sureties not affected, etc

**21.** Where a municipality fails, neglects or refuses to make or provide to the Department any form or return, statement or information prescribed or ordered made under this Part, the deputy minister may authorize some person to make and furnish the same at the expense of the municipality. 1935, c. 16, s. 22; 1936, c. 15, s. 4.

Power to obtain returns on failure of municipality to make them.

**22.** Any municipality, member of council or of a local board or an officer thereof or any other person guilty of a local wilful breach of any of the provisions of this Part or of any order of the Department made thereunder shall in addition to any other penalty provided by law incur a penalty of not less than \$20 and not more than \$200 recoverable under *The Summary Convictions Act*, and, if a member of a council or a local board shall, upon conviction, be disqualified from holding any municipal office for a period of two years. 1935, c. 16, s. 23.

Penalty.

Rev. Stat., c. 136.

## PART III.

## SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES.

Inter-  
pretation.**23.** In this Part,—“Improved  
land.”

- (a) “Improved land” shall mean any parcel of land separately assessed which has a building thereon, and shall include any land in actual use for agricultural purposes, although there is no building thereon;

“Registrar.”

- (b) “Registrar” shall mean the registrar of a registry office;

“Registry  
office.”

- (c) “Registry office” shall mean the registry office of the registry division for the county or district in which a municipality subject to this Part is situate;

“Vacant  
land.”

- (d) “Vacant land” shall mean any parcel of land separately assessed, which has no building thereon, but shall not include any improved land. 1935, c. 16, s. 24.

Special  
municipal  
jurisdiction  
of Board.

**24.—**(1) The Board shall have and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Department or of a municipality, expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than twenty per centum of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality has,—

When  
exercisable.Default  
in meeting  
debenture  
debt.

- (a) failed to meet and pay any of its debentures or interest thereon as the same became due and after payment thereof has been duly demanded; or

Default  
in meeting  
other in-  
debtedness.

- (b) failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or 1935, c. 16, s. 25 (1), cls. (a, b).

Financial  
difficulties.

- (c) or may become financially involved or embarrassed that default or unusual difficulty in meeting debts or obligations, or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures. 1936, c. 15, s. 5.

Partial or  
full inquiry.

(2) In the course of an inquiry the Board may investigate any or all of the affairs of a municipality.

(3) The Board may exercise the said powers with respect to any separate school board of any municipality which has not been made subject to this Part, upon request expressed by resolution of the school board. 1935, c. 16, s. 25 (2, 3).

Separate  
school  
board.

**25.**—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it may deem proper or necessary to vest in the Department control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board shall otherwise determine and order such municipality shall be subject to the provisions of this Part.

Power of  
Board to vest  
control over  
municipal  
adminis-  
tration in  
Department.

(2) During such time as the deputy minister is a member of the Board he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. 1935, c. 16, s. 26.

Deputy  
minister  
not to sit as  
member  
of Board.

**26.**—(1) Except as otherwise provided in this Part, the Department shall have and may exercise the powers conferred on them by this Part and such additional powers as by any order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers.

Powers of  
Department.

(2) The jurisdiction and powers to be exercised under this Part by the Department shall extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of such municipality, unless an order made by the Board shall otherwise expressly declare and direct. 1935, c. 16, s. 27.

Declaration  
as to juris-  
diction of  
Department.

**27.** The council or a local board or any creditor dissatisfied with any order of the Department may within five days after such order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct the same to be disposed of by the Board. 1936, c. 15, s. 6.

Appeals from  
orders of  
Department.

**28.** Where a municipality has become subject to the provisions of this Part, notice thereof shall be given in the *Ontario Gazette* and in such one or more newspapers, published in or near the municipality and elsewhere and to such persons and in such form as the Board may direct. 1935, c. 16, s. 29.

Notice to  
be given of  
subjection of  
municipality  
to this Part.

Stay of  
actions  
against  
municipality  
without  
leave of  
Board.

**29.**—(1) When notice has been published in the *Ontario Gazette* that a municipality is subject to this Part, such publication shall operate as a stay of all actions or proceedings pending against the municipality and as a stay of execution as the case may be, and thereafter no action or other proceeding against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality, without leave of the Board.

Suspension  
of operation  
of statutes of  
limitation.

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall upon the removal of the prevention or stay, have the same length of time within which to take action or proceed or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation; provided that this subsection shall not apply unless application is made to the Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused. 1935, c. 16, s. 30.

Existing  
liens not  
taken away.

**30.** Nothing in this Part contained shall take away any lien, hypothec or other charge, if any, in existence and subsisting at the time this Part comes into force with respect to any municipality upon or against any revenue or other asset of the municipality and the same shall continue to exist until it is satisfied and discharged. 1935, c. 16, s. 31.

Control  
exercisable  
by  
Department.

**31.** The Department shall with respect to the municipality and every local board thereof have control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,—

Municipal  
officers.

(a) the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remunerations;

Revenues  
and expendi-  
tures.

(b) the collection, receipt, application and payment of its revenues and expenditures;

Sinking  
funds.

(c) the keeping, investment, use, application, payment



and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund;

- (d) the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures; Accounting and audit.
- (e) the making of and the manner and times for making the assessment and assessment rolls and of appeals therefrom; Assessment.
- (f) the yearly or other estimates and the form, preparation and completion thereof, and the times when the same shall be made; Estimates.
- (g) the amounts to be provided for and included in the yearly or other estimates, whether the same are to be provided by taxation or otherwise; What estimates shall include.
- (h) the imposition, rating, levying and collection of all rates, assessments and taxation, the mode and times for collecting the same and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll; Rates and collection thereof.
- (i) borrowing of moneys for the current expenditures of the corporation until the taxes are collected; Borrowings.
- (j) subject to *The Power Commission Act*, the rates, rents and charges imposed, levied or collectible for supply or service of any public utility; Utility rates. Rev. Stat., c. 62.
- (k) imposition, charging and collection of all license, permit or other fees, charges and expenses; License and permit fees.
- (l) the sale or other disposition of any of its assets; and Sale of assets.
- (m) without being limited by the foregoing, generally with respect to any other matter in any way affecting or pertaining to its affairs and their administration. 1935, c. 16, s. 32. General.

**32.** Where a municipality has become subject to this Part the Board, with respect to the debenture debt and debentures of the municipality and interest thereon and with respect to any other indebtedness thereof, shall have power to authorize and order,—

- (a) consolidation of the whole or any portion thereof;

- (b) issue of debentures in payment and satisfaction of the whole or any portion of such other indebtedness or any portion or portions thereof, and compulsory acceptance of such debentures in payment and satisfaction thereof;
- (c) issue of new debentures to cover any such consolidation;
- (d) issue of new debentures in substitution and exchange for any outstanding debentures and compulsory acceptance thereof by the holders of such outstanding debentures;
- (e) retirement and cancellation of the whole or any portion of the existing debenture debt and outstanding debentures, upon the issue of new debentures to cover the same or in exchange therefor;
- (f) terms, conditions, places and times for exchange of new debentures for outstanding debentures;
- (g) postponement of or variation in the terms, times and places for payment of the whole or any portion of the debenture debt and outstanding debentures and other indebtedness and interest thereon and variation in the rates of such interest;
- (h) cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;
- (i) creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures, or other indebtedness or any portion thereof or interest thereon;
- (j) custody, management, investment and application of sinking funds, reserves and surpluses;
- (k) ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;

- (l) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section. 1935, c. 16, s. 33.

**33.** The Board upon the application of the separate school board of a municipality which has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, shall have power to make orders under and in accordance with the provisions of section 32 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. 1935, c. 16, s. 34.

**34.—(1)** Where the Board upon application to it by the Department or the council or a separate school board or any of the creditors of the municipality intends to exercise any of the powers conferred on the Board under section 32 or 33, it shall, before so doing, give or direct that there be given notice of such intention in the *Ontario Gazette* and by such other publication and to such persons and in such manner as to the Board may seem proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than three months after the notice is published in the *Ontario Gazette*.

(2) The provisions of subsection 1 shall not apply with respect to any matter which is merely incidental to the exercise of any of said powers.

(3) The Board shall not make any order under section 32 if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness, but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable.

(4) If creditors representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have in writing filed with the Board their approval of the making of any order of the Board under section 32, it shall not be neces-

sary that any notice be given under subsection 1 of the intention of the Board to exercise its power to make such order, and in such case the provisions of subsection 3 shall not apply. 1935, c. 16, s. 35.

Debenture debt not to form part of debt after order of Board.

**35.** After an order of the Board has been made under section 32 no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired or exchanged shall form part of its debt within the meaning of any Act limiting its borrowing powers. 1935, c. 16, s. 36.

Department may arrange to vary or cancel subsisting agreements.

**36.** The municipality may, with the approval of the Department, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. 1935, c. 16, s. 37.

Department to approve debenture issues.

**37.—**(1) The municipality shall not, under the provisions of any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation, without the approval of the Department first being obtained.

Approval of debenture by-laws.

(2) The municipality may, with the approval of the Department pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law shall have any force and effect until approved by the Department. 1935, c. 16, s. 38.

Assent of electors not requisite.

**38.** It shall not be necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Department. 1935, c. 16, s. 39.

Department to have control over moneys and their application.

**39.** The Department shall have full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank to be designated by the municipality and when so deposited shall only be applied, used, transferred and withdrawn for such purpose in such manner and at such time or times as the Department may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and



in such manner as the Department may authorize and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than directed by the Department. 1935, c. 16, s. 40.

**40.**—(1) Notwithstanding the provisions of any general or special Act or of any by-law of the municipality, only such rates, assessments, or amounts shall be imposed, rated, levied or directed so to be upon the rateable property within the municipality or upon any part thereof as the Department approves and directs. Approval of Department necessary to levy rate.

(2) Nothing in this Part contained shall relieve a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part, the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money borrowed by it upon debentures or otherwise until payment is made, and the payment of the said amounts with interest shall be made as and when the Department may direct. County rates to be provided as Department may direct.

(3) The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality subject to this Part less than the whole amount thereof. 1935, c. 16, s. 41. Settlement of county rates.

**41.** Notwithstanding anything in *The Assessment Act* contained, the court of revision for the municipality shall consist of three members to be appointed by the council with the approval of the Department and the members need not necessarily be members of the council. 1935, c. 16, s. 42; 1936, c. 15, s. 7. Court of revision. Rev. Stat., c. 272.

**42.** The collector shall return his roll to the treasurer on or before such day as the Department may direct. 1935, c. 16, s. 43; 1936, c. 15, s. 8. Return of collector's roll.

**43.**—(1) Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to the provisions of subsection 5. Vesting of vacant lands in arrears for taxes.

Vesting of improved lands in arrears for taxes.

(2) Where any part of the taxes on improved land within the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to the provisions of subsection 5.

Registration of tax arrears certificate.

(3) The treasurer, with respect to vacant land upon which any part of the taxes remain unpaid after the time mentioned in subsection 1 and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection 2, may register in the registry office a certificate to be known as a tax arrears certificate (Form 1), setting forth therein a description of such vacant land or improved land, as the case may be, and the amount of such unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate shall be vested in and become the property of the municipality, its successors and assigns, in fee simple or otherwise, according to the nature of the estate, right, title and interest whatsoever of the owners thereof at the time of such vesting, and clear of all and free from all such estate, right, title and interest, and all charges and encumbrances thereon and dower therein, subject only to the said right of redemption hereinafter provided and to the provisions of subsection 5.

Notice of registration of certificate.

(4) Immediately upon registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the registry office to have an interest therein a written notice (Form 2), of the registration of such certificate and of the last day for redemption of such land.

Interest of Crown not affected.

(5) Where the Crown, whether as represented by the government of Canada or the government of the Province of Ontario, has any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein shall be vested in the municipality by the registration of a tax arrears certificate, and where such interest is that of a lessee, licensee or locatee, such vesting shall be valid without requiring the consent of the Minister of Lands and Forests.

Department to approve registration.

(6) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Department, and any such authority may be general or special in its

terms and shall not be required to be registered or referred to in any certificate which is registered. 1935, c. 16, s. 44.

**44.** The owner of or any person appearing by the records of the registry office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the same at any time within one year after the date of registration of the certificate by paying to the corporation the amount set forth in such certificate in respect of the land to be redeemed, together with the amount of all expenses incurred by the corporation and the treasurer in registering the certificates and for searches and postage and \$1 for each certificate and for each notice sent under subsection 4 of section 43, and also by paying to the corporation all taxes including the local improvement rates and interest thereon which would have accrued against the land if it had remained the property of the former owner and had been liable for ordinary taxation and if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land shall be final and conclusive.

(2) Upon redemption being made under this section, the treasurer shall forthwith register in the registry office a certificate to be known as a redemption certificate (Form 3), setting forth therein a description of the land redeemed, and a redemption certificate shall, subject to subsection 3, when registered, be as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the original estate of such registered owner and a valid and effectual cancellation of the tax arrears certificate registered with respect to such land.

(3) If land is redeemed by any person entitled to redeem the same other than the owner such person shall have a lien upon the owner's interest therein for the amount paid to redeem the said land. 1935, c. 16, s. 45.

**45.—(1)** Every certificate registered under sections 43

Right of redemption.

Registration of redemption certificate.

Lien on redemption by other than owner.

Duty of registrar.

and 45 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under *The Registry Act*. 1935, c. 16, s. 46 (1).

Rev. Stat.,  
c. 170.

Fees of  
registrar.

(2) The registrar shall be entitled to the following fees for registration of a certificate under section 43, 44 or 47, and for searches made for the corporation for the purposes mentioned in section 43 and no others:

- (a) For registering a tax arrears certificate of vacant land, \$2 and ten cents additional for every lot in excess of the first lot embraced in such certificate;
- (b) For registering a tax arrears certificate of improved land, \$2;
- (c) For registering a redemption or vacating certificate, fifty cents, and if the certificate embraces more than one parcel of land, for each additional parcel over one, five cents;
- (d) For each search made for the corporation for the purposes mentioned in section 43, five cents for each lot searched, but in no case to be more than \$5 for a search in respect of the lands described in any one certificate. 1936, c. 15, s. 9 (1).

Land  
transfer tax  
not payable.  
Rev. Stat.,  
c. 31.

(3) No tax shall be payable under the provisions of *The Land Transfer Tax Act* on registration of any tax arrears or redemption certificate or vacating certificate. 1935, c. 16, s. 46 (3).

What lands  
certificate  
may  
embrace.

(4) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land which is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. 1936, c. 15, s. 9 (2).

Registration  
of certi-  
ficates.

**46.** Where lands to which section 43 applies are registered in a land titles office, the certificates which may be registered under the provisions of sections 43, 44 and 45 shall be registered in the proper land titles office and the provisions of the said sections 43, 44 and 45 shall, *mutatis mutandis*, apply to lands entered in a land titles office. 1935, c. 16, s. 47.

Department  
to control  
such lands.

**47.**—(1) Control over all lands which become the property of the corporation of a municipality by virtue of section 43 and of their use, occupation, renting, leasing, sale or other



disposition shall on behalf of the corporation in which they are vested, be exercised by the Department and all proceeds derived from the use, occupation, renting, leasing, sale or other disposition of any of the said lands shall be under the control and direction of the Department. 1935, c. 16, s. 48(1); 1936, c. 15, s. 10 (1).

Department to control proceeds from such lands.

(2) Where under the provisions of this Part a tax arrears certificate has been registered with respect to any land and it is subsequently ascertained that the same was registered by mistake or that lands have erroneously been included therein, or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 49, the Department may direct the treasurer of the corporation to register a certificate to be known as a vacating certificate (Form 4), setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate shall, when registered, be as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the original estate of such registered owner; provided however that the registration of any vacating certificate shall not in any way cancel or affect taxes or arrears of taxes, if any, which may be due upon the land described therein. 1935, c. 16, s. 48 (2); 1936, c. 15, s. 10 (2).

Vacating certificates.

Proviso.

(3) The Department may require the council of a municipality subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 89 of *The Registry Act*.

Cancellation of plans.

Rev. Stat., c. 170.

(4) The provisions of this section shall apply to all lands acquired by the corporation of the city of Windsor under section 3 of *The City of Windsor Act*, 1932. 1935, c. 16, 1932, c. 95, s. 48.

Application to City of Windsor.

**48.**—(1) The Department shall have the same right of appeal as any person assessed has under subsection 3 of section 73 of *The Assessment Act* with respect to the assessment roll of the municipality, and shall have in addition the rights of appeal conferred by this section.

Right of appeal of Department. Rev. Stat., c. 272.

(2) An appeal by the Department under this section may be made at any time within twenty days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any

area of the municipality described in the notice of appeal or generally with respect to assessments of land only or buildings only or income or business included in the roll or in any area of the municipality defined in the notice of appeal.

(3) The Department shall have the same right of appeal from any decision of the court of revision or county judge as a person assessed has under *The Assessment Act*.

(4) Save as provided in subsection 2, in any appeal against a particular assessment by the Department the practice and procedure thereon shall be the same as in the case of an appeal by a person assessed.

Practice and  
procedure in  
general  
appeal.

(5) In any general appeal by the Department under the authority of this section the practice and procedure shall be determined by the court of revision, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as may be determined by the court, judge or Board and upon the hearing of any such general appeal the court, judge or Board shall have jurisdiction to review any or all of the assessments included in the roll as may be necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board. 1935, c. 16, s. 49.

Compromise  
of tax  
arrears.

**49.**—(1) The Department may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer and in such compromise may provide for an extension of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof. 1935, c. 16, s. 50 (1); 1936, c. 15, s. 11.

Lien for  
taxes not  
affected.

(2) Where a compromise of tax arrears has been entered into under this section and an extension of the time payment thereof agreed upon, such tax arrears shall be and remain a special lien upon the land in respect to which they are payable in priority over all claims, liens, privileges and encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with respect thereto provided for in *The Assessment Act* shall continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality

Rev. Stat.,  
c. 272.

or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. 1935, c. 16, s. 50 (2).

**50.** Any agreement entered into in accordance with the provisions of this Part shall be binding upon and enure to the benefit of the parties thereto and all persons over whom the Legislature of this Province has legislative authority. 1935, c. 16, s. 51.

Effect of agreements.

**51.** The housing commission may with the approval of the Department, amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement which has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Department may approve. 1935, c. 16, s. 52.

Power of housing commission to amend agreements.

**52.** The jurisdiction and powers of a municipality subject to this Part exercisable under the provisions of any general or special Act shall only be exercised in accordance with and subject to the provisions of this Part and of any order of the Department or the Board made, or agreement entered into thereunder. 1935, c. 16, s. 53.

Exercise of municipal jurisdiction subject to this Part.

**53.—(1)** The Department or the Board shall have exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any other person of any of the powers conferred by this Part, and such jurisdiction shall not be open to question or review in any action or proceeding or by any court.

Exclusive jurisdiction of Board and Department.

**(2)** The Department or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same.

Department's directions subject to review by Board.

**(3)** Any order made or approval given by the Department or the Board under this Part shall, subject to the right of the Board or the Department to review and amend or revoke the same, be final and conclusive and not open to question in any court.

Orders to be final.

**(4)** The Board only shall have and exercise exclusive jurisdiction to make any order under the provisions of sections 24, 25, 32, 33, 34 and 60, and otherwise shall have jurisdiction only with respect to appeals to it under the provisions of section 27.

Board's jurisdiction.

Department's  
jurisdiction.

(5) Except as provided by sections 24, 25, 27, 32, 33, 34 and 60, and by subsection 4, the Department only shall have and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. 1935, c. 16, s. 54.

Powers of  
Board and  
Department.

**54.** The Department or the Board may make such orders and prescribe such forms from time to time as it may deem necessary to carry out the provisions of this Part or any agreement made in pursuance thereof and make rules and regulations in respect of applications, matters and things under this Part. 1935, c. 16, s. 55.

Forms of  
certificates,  
notices, etc.

**55.** Every certificate, notice or other form which is in substantial conformity with the form thereof required by the provisions of this Part or prescribed by the Department or the board, shall not be open to objection on the ground that it is not in the form required by the provisions of this Part or as prescribed by the Department or the Board. 1935, c. 16, s. 56.

Powers  
exercisable  
for and in  
name of  
municipality.

**56.** Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Department under this Part, in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. 1935, c. 16, s. 57.

Board and  
Department  
to have  
access to all  
books and  
records.

**57.** The Board and the Department shall have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing, all assessment rolls, collectors' rolls, by-laws, minute books, books of account, vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy the same or any part thereof. 1935, c. 16, s. 58.

Powers  
to enforce  
orders.

**58.—(1)** Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board or the Department, the Board or the Department may, upon such notice, if any, as it may prescribe, do or order done all acts, deeds, matters and things necessary for compliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.



(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants shall comply with the orders, directions and decisions of the Board or the Department in any matter relating to the administration of the affairs of such municipality or local board and, any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto shall incur a penalty of not less than \$25 and not more than \$500 for each offence, recoverable under *The Summary Convictions Act*, and any penalty so recovered shall belong to the general funds of the municipality.

Liability of members of council and local boards for non-compliance with orders and directions.

Rev. Stat., c. 136.

(3) If a municipality subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Department, the members of the council or local board who vote for such application shall be jointly and severally liable for the amount so applied, and the same may be recovered in any court of competent jurisdiction, and such members shall also be disqualified from holding any municipal office for five years. 1935, c. 16, s. 59.

Personal liability and disqualification of members of council and local boards.

**59.** The Department may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Department. 1935, c. 16, s. 60.

Dismissal of municipal officers.

**60.** The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers which have not been approved by the Board or the Department, when such approval is required under this Part. 1935, c. 16, s. 61.

Injunction against exercise of municipal powers.

**61.** The Department may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. 1935, c. 16, s. 62.

Department may combine municipal offices.

**62.—(1)** The Department may direct payment of such fees, or remuneration and travelling and other expenses reasonably incurred by the Department as it may determine.

Expenses of Department.

(2) The Department may appoint some person who may be an officer of the municipality to exercise such powers and duties as the Department may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Department may determine.

Department's officer.

Council may  
be heard  
as to  
salaries.

(3) The Department in determining the salaries to be paid to any person appointed by it under subsection 2 shall give consideration to such representations with respect thereto as the council may at any time make.

Salaries and  
expenses to  
be paid by  
municipality.

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Department in the carrying out the provisions of this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Department may direct. 1935, c. 16, s. 63.

Provisions  
of this Act  
to prevail.

**63.** The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Department or municipality under this or any other Act, but where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter shall prevail. 1935, c. 16, s. 64.

Board may  
end applica-  
tion of this  
Part.

**64.** Where the Department is of opinion that the affairs of a municipality no longer require to be administered under this Part the Board may make an order directing that on, from and after a date fixed thereby the provisions of this Part shall no longer apply to the municipality and on, from and after such date the Board and the Department shall cease to exercise jurisdiction and control over the municipality under this Part. 1935, c. 16, s. 65.

Certain  
municipal-  
ities and  
local boards  
subject to  
this Part.

1935, c. 74;  
1932,  
c. 27.

**65.** Subject to the provisions of *The City of Windsor (Amalgamation) Act, 1935*, the municipalities and local boards heretofore declared subject to the provisions of Part VI of *The Ontario Municipal Board Act, 1932*, shall be and remain subject to the provisions of this Part and to the jurisdiction and control of the Board and the Department as provided for in this Part. 1935, c. 16, s. 66.

FORM 1.

TAX ARREARS CERTIFICATE.

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY by virtue of *The Department of Municipal Affairs Act*, section 43, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in said section are hereby vested in and have become the property of the .....of.....(naming the municipality).

Description of Lands	Amount of Unpaid Taxes with Penalties, Interest and Costs	Whether Vacant or Improved Land

The period within which the right of redemption may be exercised under the said Act with respect to the above described land is one (1) year from the date of registration of this certificate.

Dated at.....this.....day of....., 19 ..

.....  
Treasurer.

1935, c. 16, Form 1.

FORM 2

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE that by virtue of *The Department of Municipal Affairs Act*, section 43, a tax arrears certificate has been registered against the following lands, namely:

.....  
.....

and by reason thereof the same are vested in and have become the property of the corporation of the.....of.....(naming the municipality) subject only to your right of redemption of the same on or before the.....day of....., 19 .., which is the last day for redemption.

Dated at.....this.....day of....., 19 ..

.....  
Treasurer.

1935, c. 16, Form 2.

FORM 3.

REDEMPTION CERTIFICATE.

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the lands hereunder described have been redeemed by.....under the provisions of *The Department of Municipal Affairs Act*.

*Description of Lands*

.....  
.....

Take notice that where land is redeemed by any person entitled to redeem the same other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem said land.

Dated at.....this.....day of....., 19 ..

.....  
Treasurer.

1935, c. 16, Form 3.

FORM 4.

VACATING CERTIFICATE.

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the title of the corporation of the .....of.....to the lands hereunder described is hereby vacated by the said corporation under the provisions of *The Department of Municipal Affairs Act*.

*Description of Lands*

.....  
.....

Dated at.....this.....day of....., 19 ..

.....  
Treasurer.

1935, c. 16, Form 4.



## CHAPTER 60.

## The Ontario Municipal Board Act.

## PART I.

## INTERPRETATION.

## 1. In this Act,—

Interpreta-  
tion.

(a) "Board" shall mean the Ontario Municipal Board. "Board."

(b) "Local board" shall mean and include any school board, public utility commission, public library board, board of park management, local board of health, board of police commissioners and any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality. "Local board."

(c) "Municipality" shall mean a county, city, town, village or township and shall include the corporation thereof and shall also include every local board thereof. "Municipality."

(d) "Public utility" shall mean and include any water-works, gasworks, including works for the production, transmission, distribution and supply of natural gas, electric heat, light and power works, and telegraph or telephone lines, or any works supplying the general public with necessities or conveniences. 1932, c. 27, s. 2. "Public utility."

2. The interpretation sections of *The Railway Act* shall apply to this Act. 1932, c. 27, s. 3. Interpretation under Rev. Stat., c. 259.

3. The provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including street railways. 1932, c. 27, s. 4. Application of Act to all railways.

References  
to former  
board.

4. Where in any general or special Act reference is made to the Ontario Railway and Municipal Board or to that board under any other name, hereafter it shall be deemed that such reference is made to the Board as named in this Act. 1932, c. 27, s. 5.

## PART II.

### CONSTITUTION OF BOARD.

Change of  
designation.

5. The Ontario Railway and Municipal Board as heretofore constituted shall under the provisions of this Act continue, but hereafter shall be called the "Ontario Municipal Board." 1932, c. 27, s. 6.

Present  
members  
continued.  
R.S.O. 1927,  
c. 225.

6. The members of the board heretofore appointed under *The Railway and Municipal Board Act* shall continue in their respective offices as members of the Board under this Act. 1932, c. 27, s. 7.

Composition  
of Board.

7. The Board shall be composed of three members to be appointed by the Lieutenant-Governor in Council, one of whom shall be appointed as chairman and another as vice-chairman, and each of them shall continue so to be while he is a member of the Board. 1932, c. 27, s. 8.

Vacancies.

8. Vacancies in membership of the Board caused by death, resignation or otherwise, may be filled by the Lieutenant-Governor in Council. 1932, c. 27, s. 9.

Tenure of  
office.

9. Members of the Board continuing in office at the time this Act comes into force and hereafter appointed shall hold office during pleasure. 1932, c. 27, s. 10 (1).

Power of  
vice-  
chairman.

10. In the case of the absence of the chairman or of his inability to act or of a vacancy in the office, the vice-chairman shall have and exercise the jurisdiction and powers of the chairman, including the power to complete any unfinished matter, and in such case all orders, rules, regulations, certificates and other documents signed by the vice-chairman shall have the like force and effect as if signed by the chairman. 1932, c. 27, s. 11.

Presumption  
of having  
duly acted.

11. Whenever it appears that the vice-chairman has acted for and instead of the chairman, it shall conclusively be presumed that he has so acted in the absence or disability of the chairman. 1932, c. 27, s. 12.

**12.** A vacancy in membership of the Board or the absence or inability of a member to act, shall not impair the powers of the Board or of the remaining members who shall exercise all the jurisdiction and powers of the Board. 1932, c. 27, s. 13.

Powers of Board on vacancy.

**13.** Except as provided in section 14, two members of the Board shall form a quorum and be sufficient for the exercise of all the jurisdiction and powers of the Board, and not less than two members shall attend at the hearing of every case. 1932, c. 27, s. 14.

Quorum.

**14.** In any case, application or matter before the Board in which there is no opposing party and no notice to be given to any interested party, any one member may act alone for the Board. 1932, c. 27, s. 15.

Where applications unopposed.

**15.** The chairman, when present, shall preside at all sittings of the Board, and his opinion upon any question of law shall prevail. 1932, c. 27, s. 16.

Questions of law.

**16.** The Board or the chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such member shall have all the powers of the Board for the purpose of taking evidence and acquiring the necessary information for the purpose of such report, and upon the report being made to the Board, it may be adopted as the order of the Board or otherwise dealt with as to the Board seems proper. 1932, c. 27, s. 17.

Reference to a member.

**17.** Whenever a member of the Board is interested in any matter before the Board, the Lieutenant-Governor in Council may, upon the application of such member or otherwise, appoint a disinterested person to act as a member, *pro hac vice*, and the Lieutenant-Governor in Council may also appoint a person to act as member during the illness, absence or inability to act of any member. 1932, c. 27, s. 18.

Appointments *pro hac vice*.

**18.** Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant-Governor in Council, the members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. 1932, c. 27, s. 19.

Attendance to duties.

**19.** No member or officer of the Board shall, directly or indirectly,—

(a) hold, purchase, take, deal in or become interested in

Prohibition against holding municipal securities, railway stock, etc.;

any stock, bond, debenture, share or other security of any municipality in Ontario or of any railway or public utility company or any company which in any way controls a railway or public utility;

or having  
interest in  
contract;

(b) become concerned or interested in any contract, undertaking or work with or for any municipality, railway or public utility company;

or having  
interest in  
appliances.

(c) have any interest in any device, appliance, machine, patented process or article or in any part thereof which may be required or used for the purpose of the business of any municipality, railway or public utility company. 1932, c. 27, s. 20.

Duty to  
dispose of  
interest.

**20.** If a member or officer of the Board shall by will, succession, or otherwise for his own benefit, directly or indirectly, become the owner, holder or otherwise vested with or interested in any stock, bond, debenture, share, security, contract, undertaking, work, device, appliance, machine, patented process or article mentioned in section 19, he shall within one year thereafter absolutely sell and dispose of the same or his interest therein. 1932, c. 27, s. 21.

Members of  
Board not to  
be officers or  
directors of  
certain  
companies.

**21.** No member or officer of the Board shall act as director or officer of any railway or public utility company or of any company which has power to invest any portion of its funds in the securities of a municipality, railway or public utility company. 1932, c. 27, s. 22.

Securing  
assistance  
for purpose  
of inquiry.

**22.** For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or by the Lieutenant-Governor in Council, the Board may with the consent of the Minister of the Executive Council in charge of any department of the Government, avail itself of the services of any officer or employee of such department and for any such purpose it may with the approval of the Lieutenant-Governor in Council, avail itself of the services of any member, officer or employee of any board or commission established by Act of the Legislature. 1932, c. 27, s. 23.

Offices at  
Toronto.

**23.** The Lieutenant-Governor in Council shall provide within the City of Toronto a suitable place in which the sittings of the Board may be held and also suitable offices for the members, secretary, staff and other employees and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same and for



the performance of the duties of the Board. 1932, c. 27, s. 24.

**24.** The Board shall sit at such times and places within <sup>Sittings of Board.</sup> the province as the chairman may from time to time designate and shall conduct its proceedings in such manner as may seem to it most convenient for the speedy and effectual dispatch of its duties. 1932, c. 27, s. 25.

**25.** The sittings of the Board may be either private or <sup>Private or public.</sup> open to the public, but any complaint made to the Board shall, on the application of any party thereto, be publicly heard. 1932, c. 27, s. 26.

**26.** Where sittings of the Board or any member thereof are appointed to be held in any municipality in which a court house is situate, the Board or members shall have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. 1932, c. 27, s. 27. <sup>Use of court house.</sup>

**27.** Where sittings of the Board, or any member thereof, are appointed to be held in any municipality in which there is a hall belonging to the corporation thereof, but no court house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose. 1932, c. 27, s. 28. <sup>Use of town hall.</sup>

**28.** The Lieutenant-Governor in Council may from time <sup>Experts.</sup> to time upon the recommendation of the Board, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question in respect of any particular matter or subject before the Board to assist the Board in an advisory or other capacity. 1932, c. 27, s. 29.

**29.** There shall be a secretary of the Board who shall be <sup>Secretary.</sup> appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. 1932, c. 27, s. 30.

**30.** It shall be the duty of the secretary to,—

<sup>Duties of secretary,—</sup>

(a) attend all sittings of the Board;

<sup>Attend sittings.</sup>

(b) keep a record of all applications to and proceedings before the Board or any member;

<sup>Keep minutes.</sup>

Custody of records.

- (c) have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Board or any member, or filed in his office;

Authentication of regulations, orders, etc.

- (d) have every order, rule, regulation and certificate drawn pursuant to the directions of the Board and according to the provisions of any statute affecting the same properly authenticated and issued, filed and otherwise dealt with as may be requisite;

Record books.

- (e) keep proper books of record in which he shall cause to be entered a true copy of every order, rule and regulation made by the Board and of every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of every such order, rule, regulation and document;

Other matters.

- (f) carry out such other functions and duties as may by statute, the Lieutenant-Governor in Council or the Board be assigned to him or his office; and

Obeys directions.

- (g) obey all rules, regulations and directions made or given by the Board touching his duties or his office. 1932, c. 27, s. 31.

Certified copies of regulations or orders.

**31.** Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any order, rule, regulation, certificate or other document made, given or issued by the Board. 1932, c. 27, s. 32.

Acting secretary.

**32.** Where the office of the secretary is vacant, or in his absence or inability to act, the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. 1932, c. 27, s. 33.

Staff of Board,—appointment and dismissal.

**33.** The staff of the Board shall consist of a secretary and of such other officers, clerks, stenographers and employees as the Board, with the approval of the Lieutenant-Governor in Council, from time to time appoints, and the Board, with the like approval, may at pleasure dismiss any of them. 1932, c. 27, s. 34.

Salaries of Board and secretary.

**34.** The chairman and other members of the Board and the secretary shall be paid such salaries as shall from time to time be fixed by the Lieutenant-Governor in Council. 1932, c. 27, s. 35.

**35.** The officers, clerks, stenographers and employees of the Board shall be paid such salaries or remuneration as upon the recommendation of the Board, the Lieutenant-Governor in Council may approve. 1932, c. 27, s. 36. Salaries of staff.

**36.** Whenever the Board by virtue of any power vested in it appoints or directs any person other than a member of the staff of the Board to perform any service required by this or any other Act, such person shall be paid such sum for services and expenses as, upon the recommendation of the Board, the Lieutenant-Governor in Council may approve. 1932, c. 27, s. 37. Remuneration of appointee.

**37.** The salaries of the members of the Board and the secretary and the salaries or remuneration of the staff of the Board and all expenses of the Board and of supplying or maintaining offices and furnishings, stationery, supplies and equipment for the Board, together with expenses incurred by members of the Board or the secretary in the performance of their duties including reasonable travelling and subsistence expenses of the members and secretary and of such of its staff as may be required or authorized by the Board necessarily incurred in attending to the duties of their office, shall be paid monthly out of the Consolidated Revenue Fund of the Province. 1932, c. 27, s. 38. Salaries.

**38.** Neither the members of the Board nor its secretary nor any of its staff shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. 1932, c. 27, s. 39. Protection from being called as witnesses.

**39.** Neither the members of the Board, nor its secretary nor any of its staff shall be personally liable for anything done by it or by him under the authority of this or any other Act. 1932, c. 27, s. 40. Protection from personal liability.

### PART III.

#### GENERAL JURISDICTION AND POWERS.

**40.** The Board shall for all purposes of this Act have all the powers of a court of record and shall have an official seal which shall be judicially noticed. 1932, c. 27, s. 41. Board to have powers of court of record and a seal.

**41.** The Board shall as to all matters within its jurisdiction under this Act have authority to hear and determine all questions of law or of fact. 1932, c. 27, s. 42. Power to determine law and fact.

Jurisdiction  
exclusive.

**42.** The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. 1932, c. 27, s. 43.

General  
jurisdiction  
and powers.

**43.** The Board shall have jurisdiction and power to,—

- (a) hear and determine all applications made, proceedings instituted and matters brought before it under the provisions of this Act or of any other general or special Act and for such purpose to make such orders, rules and regulations, give such directions, issue such certificates and otherwise do and perform all such acts, matters, deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board under such Act;
- (b) perform such other functions and duties as are now or shall hereafter be conferred upon or assigned to the Board by statute or under statutory authority;
- (c) order and require or forbid, forthwith or within any specified time and in any manner prescribed by the Board, the doing of any act, matter or thing or the omission or abstention from doing or continuance of any act, matter or thing, which any person, firm, company, corporation or municipality is or may be required to do or omit to be done or to abstain from doing or continuing under this or any other general or special Act, or under any order of the Board or any regulation, rule, by-law or direction made or given under any such act or order or under any agreement entered into by such person, firm, company, corporation or municipality; and
- (d) make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue. 1932, c. 27, s. 44.

Powers of  
Supreme  
Court  
exercisable  
by Board.

**44.** The Board for the due exercise of its jurisdiction and powers and otherwise for carrying into effect the provisions of this or any other general or special Act, shall have all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. 1932, c. 27, s. 45.



**45.** Where by the provisions of any Letters Patent or supplementary Letters Patent of any corporation heretofore or hereafter issued under *The Companies Act* or any other general or special Act, any jurisdiction is conferred upon the Board, or it is provided that any matter in any way may be referred to the Board, it shall with respect thereto have power to inquire into, hear and determine all matters and things necessary or incidental to the due exercise of such jurisdiction and reference and to make and give orders, directions, regulations, rules, permissions, approvals, sanctions and certificates as to the Board may seem proper. 1932, c. 27, s. 46.

Jurisdiction  
under  
Letters  
Patent.  
Rev. Stat.  
c. 251.

**46.** Where by the provisions of this or any other general or special Act the permission, approval or sanction of the Board is necessary to the exercise of any power or the doing, or the abstention from doing or continuing to do any act, matter, deed or thing, such power shall not be exercised or act, matter, deed or thing be done or abstained from being done or be continued until such permission, approval or sanction has been obtained. 1932, c. 27, s. 47.

Where  
Board's  
approval  
not given.

**47.**—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it.

When Board  
may act.

(2) Any power or authority vested in the Board under this Act or any other general or special Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. 1932, c.27, s. 48.

Power to act  
from time  
to time.

**48.**—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct an inquiry or hearing or to represent the Board upon the argument of any appeal to the Court of Appeal or to any other court in an appeal from the Court of Appeal, in cases where any such appeal may lie.

Appoint-  
ment of  
counsel.

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. 1932, c. 27, s. 49.

Costs.

**49.** The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. 1932, c. 27, s. 50.

Power  
to rehear,  
review, etc.

Board to inquire and report on certain matters at request of Government or Legislature.

**50.** The Board shall, when required so to do by the Lieutenant-Governor in Council, the Assembly or any committee thereof, make or cause to be made under its supervision, an inquiry into any facts which the Lieutenant-Governor in Council, the Assembly or any such committee may desire to ascertain before passing upon the propriety of any proposed change in the general law, or upon any proposed Bill relating to a municipality or to a railway or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such inquiry the Board shall report its opinion thereon. 1932, c. 27, s. 51.

Reference by Lieutenant-Governor in Council for report.

**51.** The Lieutenant-Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a municipality, railway or public utility subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order-in-Council. 1932, c. 27, s. 52.

Board may order inquiries.

**52.**—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

Costs.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. 1932, c. 27, s. 53.

General powers.

**53.** The Board may order and require any person or company, corporation or municipality to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing which such person, company, corporation or municipality is or may be required to do under this Act, or under any other general or special Act, or any regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. 1932, c. 27, s. 54.

Adoption of appliances for protection of life, etc.

**54.** The Board may require any person, company, corporation or municipality, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board may deem necessary or expedient for the safety of life and property. 1932, c. 27, s. 55.

**55.**—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what person, company, corporation or municipality interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

Duty to execute works ordered by Board.

(2) The Board may order by whom, in what proportion and when, the costs and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order shall be paid. 1932, c. 27, s. 56.

And to pay expenses of them.

**56.** If default is made by a person, company, corporation or municipality in the doing of any act, matter or thing, which the Board has authority, under this or any other general or special Act, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person, company, corporation or municipality in default as money paid for and at his or its request, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. 1932, c. 27, s. 57.

Board's powers upon default in obeying order.

**57.** The Board shall also have power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railway Act*. 1932, c. 27, s. 58.

Enforcing orders of Board.  
Rev. Stat., c. 259.

**58.** The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may,—

Powers respecting inquiries.

(a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite; Entry.

(b) inspect any works, structure, rolling stock or property of the company; Inspection.

Attendance  
of witnesses.

- (c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make;

Production  
of docu-  
ments, etc.

- (d) require the production of all books, papers, plans, specifications, drawings and documents, relating to any matter before it or him;

Oaths.

- (e) administer oaths,

Summoning  
witnesses  
and  
enforcing  
attendance.

and shall have the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things which they are required to produce, as is vested in any court in civil cases. 1932, c. 27, s. 59.

## PART IV.

### GENERAL MUNICIPAL JURISDICTION.

General  
municipal  
jurisdiction  
of the Board.

**59.** The Board shall have jurisdiction and power in relation to municipal affairs to,—

Advisory  
powers.

- (a) effect improvement generally in their conduct and administration and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;

Approving  
borrowings.

- (b) approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act which may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, and which municipality voluntarily applies for or is required by law to obtain such approval;

Approving  
by-laws.

- (c) approve any by-law or proposed by-law of a municipality which voluntarily applies for or is required by law to obtain such approval;

Floating  
debt.

- (d) authorize the issue by a municipality of debentures to pay any floating indebtedness which it may have incurred, upon such terms, in such manner and at such times as the Board may approve, or direct



that such floating indebtedness be paid in such other manner and within such time as the Board may require;

- (e) certify to the validity of debentures issued under the authority of any by-law of a municipality which the Board has approved; Certifying validity of debentures.

- (f) direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite; Assent of electors to by-laws.

- (g) supervise, where deemed necessary, the expenditure of any moneys borrowed by a municipality with the approval of the Board; Supervising certain expenditures.

- (h) require and obtain from any municipality at any time and for any definite period statements in detail of any of its affairs, financial and otherwise; 1932, c. 27, s. 78, cls. (a-h). Detailed statement of affairs.

- (i) inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interests of such municipality, its ratepayers, inhabitants and creditors and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations. 1934, c. 39, s. 3. Power of investigation.

- (j) generally, exercise such jurisdiction and powers as by or under the authority of this Act or *The Municipal Act* or any other general or special Act are conferred upon the Board. 1932, c. 27, s. 78, cl. (i). General. Rev. Stat., c. 266.

**60.** Although not required by law to do so, any municipality may voluntarily apply to the Board for its approval of,— Voluntary application to Board for its approval of certain matters.

- (a) the exercise by the municipality of any of its powers which may or will involve or require the borrowing of money by the issue of debentures;
- (b) the incurring of any debt;
- (c) the issuing of its debentures;

(d) any by-laws passed or proposed to be passed for any such purpose. 1932, c. 27, s. 79.

Application to Board for approval of by-law authorizing borrowing.

**61.** Any person the holder of or otherwise entitled to receive any debenture of a municipality or the proceeds of sale thereof or to whom a debt has been incurred or from whom money has been borrowed under the authority of any by-law of a municipality may apply to the Board for approval of such by-law, and the Board may approve the same. 1932, c. 27, s. 80.

Approval to be withheld where litigation pending.

**62.** The Board shall not grant or issue any approval or certificate under the provisions of this or any other general or special Act in respect of any municipal affair or matter, while the same or the validity thereof is called in question in any pending action or proceeding or by which it is sought to quash any by-law of a municipality relating thereto. 1932, c. 27, s. 81.

Time for giving approval.

**63.** The Board shall not approve any by-law of a municipality or certify the validity of any debenture issued thereunder until thirty days after the final passing of the by-law, unless such notice, if any, as the Board may direct has been published or given of the application for such approval. 1932, c. 27, s. 82.

Validation of by-laws and debentures.

**64.—(1)** In any case where either prior or subsequent to the issue and sale of any debentures issued or to be issued by a municipality, application is made to the Board for its approval of any by-law authorizing the issue of such debentures, and of the debentures, the Board may approve the by-law and certify the validity of the debentures, notwithstanding any illegality, invalidity or irregularity in the by-law or debentures or in any of the proceedings relating or incidental thereto occurring, had or taken prior or subsequent to the final passing of the by-law or issue of the debentures.

Effect of validation by Board.

**(2)** Every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board shall for all purposes be legal, valid and binding upon the corporation of such municipality and the ratepayers thereof and upon the property liable for any rate imposed by or under the authority of any statute or of the by-law, and every such debenture shall be good and indefeasible security according to the tenor thereof in the hands of any *bona fide* holder thereof as if such debenture had been validated or declared to be legal and binding by an Act specially passed for such purpose, and the validity

of the by-law and of every such debenture may not be contested or questioned for any cause whatsoever, nor shall it be necessary to its or their validity that the judgment or opinion of any court or person be requisite or obtained.

(3) The Board shall not approve any by-law of a municipality or certify the validity of any debenture issued thereunder if such by-law has been set aside, quashed or declared to be invalid by any court. 1934, c. 39, s. 4.

**65.** Every debenture issued or to be issued under the authority of any by-law of a municipality approved by the Board shall bear the seal and certificate of the Board signed by a member thereof, or by a person specially authorized by the chairman, establishing that the by-law has been approved by the Board and that the debenture is issued in conformity therewith. 1932, c. 27, s. 84.

**66.** The certificate of the Board to the validity of any debenture of a municipality shall be in the following form,—

THE ONTARIO MUNICIPAL BOARD.

In pursuance of *The Ontario Municipal Board Act*, the Board certifies that By-law No..... of the corporation of the..... of....., passed on the..... day of....., 19....., has been approved by the Board, and that the within debenture, issued under the authority of such by-law and in conformity therewith, is valid and binding upon the said corporation and its validity may not be contested or questioned for any cause whatsoever.

Dated this..... day of....., 19.....

(SEAL)

.....  
for the Board.

1932, c. 27, s. 85.

**67.**—(1) Every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board shall for all purposes be valid and binding upon the corporation of such municipality and the ratepayers thereof and upon the property liable for any rate imposed by or under the authority of the by-law and its validity may not be contested or questioned for any cause whatsoever, nor shall it be necessary to its validity that the judgment or opinion of any court or person be requisite or obtained.

(2) Where the Board is satisfied that any by-law or other proceeding of a municipality is not entirely beyond its jurisdiction and powers or void *ab initio*, and the validity thereof has not been questioned in any court in any litigation which

is pending or the by-law has not been set aside or quashed or the proceeding declared to be invalid by any court, the Board may, notwithstanding any invalidity in the by-law or proceeding, approve the same, and in such case the provisions of subsection 1 shall apply to the by-law and to every debenture issued thereunder bearing the seal and certificate of the Board. 1932, c. 27, s. 86.

Scope of  
Board  
inquiry.

**68.** The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking which is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters as in the opinion of the Board may appear to be necessary or expedient. 1934, c. 39, s. 5.

When  
electors'  
assent may  
be dispensed  
with.

**69.—(1)** Where under the provisions of any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incurring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act; provided that no such order shall be made by the Board unless the same is made by the unanimous decision of all the members thereof.

Proviso.

Public  
hearing.

**(2)** The Board before making any order under subsection 1 shall hold a public hearing after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the matter and of hearing any objections which any person may desire to bring to the attention of the Board.

Conditions  
in dispensing  
with vote.

**(3)** The Board in making any order under subsection 1 dispensing with the necessity for obtaining the assent of the electors or qualified electors may impose such terms, conditions and restrictions not only in respect of the matter



in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as to the Board may seem requisite or expedient. 1934, c. 39, s. 6.

**70.**—(1) Notwithstanding the provisions of any general or special Act a municipality shall not exercise any of its powers to proceed with, authorize or provide any moneys for any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is or is intended or required to be provided or raised by the issue of debentures of the municipality, until the approval of the Board has first been obtained. 1935, c. 51, s. 4, *part*.

Approval of capital undertaking.

(2) This section shall apply to the guarantee by a municipality of the debentures, bonds or other securities of any other municipality or of any other person or corporation whatsoever, or of payment of the whole or any part of the sinking fund, or principal of or interest on any such debentures, bonds or other securities, and no guarantee thereof shall be made or entered into, or by-law in that behalf be passed, by any municipality under the provisions of any general or special Act, or of any agreement entered into pursuant thereto, or by-law passed thereunder, until the approval of the Board has first been obtained. 1936, c. 45, s. 2.

Application of section to municipal guarantees.

(3) The word "municipality" where it occurs and as used in this section and in section 71 shall not include nor be deemed to have included a local board thereof except in a case where such local board may require of or apply to the council that moneys necessary for any of the purposes mentioned in this section be provided by the corporation of the municipality by means of debentures issued by the council. 1937, c. 72, s. 43.

Local boards affected only if municipal debentures to be issued.

**71.** No by-law shall be passed by a municipality for any of the purposes mentioned in section 70 until the approval of the Board has first been obtained. 1935, c. 51, s. 4, *part*.

Approval of by-laws.

**72.** Upon an application being made to the Board for the approval required by section 70, the Board shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 68, and may hold such public hearings as to the Board may appear necessary. 1935, c. 51, s. 4, *part*.

Inquiry by the Board.

Board may impose conditions on giving approval.

**73.** The Board as a condition of giving its approval as required by section 70 may by its order impose such restrictions, limitations and conditions upon the municipality with respect to the matter before the Board or with respect to the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality, and otherwise with respect to the conduct and administration of the affairs of the municipality as to the Board may appear necessary or expedient. 1935, c. 51, s. 4, *part*.

Board not required to approve.

**74.** The Board shall not be required to give its approval on any application made to it under section 70, and shall not give such approval unless satisfied that the same is justified under all circumstances. 1935, c. 51, s. 4, *part*.

Municipality may proceed upon approval.

**75.** When the Board has given its approval as required by section 70, the municipality may thereafter proceed in the manner and to the extent provided for by or consequent upon such approval, and for such purposes may exercise all its powers and do all things necessary or incidental thereto, and may pass all requisite by-laws, including debenture by-laws. 1935, c. 51, s. 4, *part*.

## PART V.

### RAILWAY AND UTILITIES JURISDICTION.

Jurisdiction of Board.

**76.** The Board shall have jurisdiction and power to,—

Railway and utility matters.

(a) inquire into, hear and determine any applications made, proceedings instituted and matters brought before it under the provisions of any general or special Act relating to railways or public utilities or any of them where by such Act any jurisdiction or power is for such purpose conferred on the Board;

Complaints of breach of railway or utility statutes, orders, agreements, etc.

(b) hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening or failure to comply on the part of any person, firm, company, corporation or municipality of or with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway, or public utility, its construction, maintenance or operation;

- (c) hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust. 1932, c. 27, s. 130.

Railway  
and public  
utility rates  
and tolls.

**77.** The fact that a manager or other official or the liquidator or receiver of a railway or public utility is managing or operating or liquidating it under the authority of any court shall not be a bar to the exercise by the Board of any jurisdiction or power conferred by this or any other general or special Act, and every such manager, official, liquidator or receiver shall be bound to manage, operate or liquidate such railway or public utility in accordance with this Act and under the orders and directions of the Board, whether general or referring particularly to such railway or public utility, and he and every person acting under him shall obey all orders and directions of the Board with respect to such railway or public utility and be subject to have them enforced against him by the Board, notwithstanding his authority or any order of the court under which he is appointed or acts. 1932, c. 27, s. 131.

Jurisdiction  
over  
receivers,  
liquidators,  
etc., of  
railway or  
public  
utility.

**78.—(1)** Wherever,—

- (a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;
- (b) by any Act of this Legislature the location of any line of railway or the route and course thereof, or the maps, plans and specifications, or any part of the equipment are subject to the approval of the Lieutenant-Governor in Council or of any of his Ministers;

Powers, etc.,  
of Railway  
Committee  
transferred  
to Board.

Location of  
line.

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(2) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. 1932, c. 27, s. 132.

Furnishing  
information.

Who is  
a "party  
interested."

**79.** The decision of the Board as to whether any person, firm, company, corporation or municipality is or is not a party interested within the meaning of any of the provisions of this Part shall be binding and conclusive upon such persons, firms, companies, corporations or municipalities. 1932, c. 27, s. 133.

Super-  
intending  
accounts of  
railways  
and public  
utilities  
operated  
by municipi-  
alities.

**80.**—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways and public utilities which are operated by or under the control of a municipality or a local board, and may require from it such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

Inquiry  
and report  
as to rates  
charged by  
public  
utilities.

(2) The Board may from time to time inquire and report as to whether such railway or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception.

(3) This section shall not apply to a public utility for the development or distribution of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario. 1932, c. 27, s. 134.

May  
arbitrate  
labour  
difficulties.

**81.**—(1) A dispute between a railway or public utility company or corporation and its employees may be submitted to the Board for its determination and settlement.

Submission.

(2) The submission shall be in writing and shall contain a statement of the matters in dispute, and also an agreement to abide by the determination of the Board and to continue in business or at work without a lockout or strike during the investigation.

Investiga-  
tion.

(3) Upon such submission the Board shall investigate and determine the matters in dispute and shall render its decision within ten days after the completion of the investigation.

Procedure.

(4) The proceedings shall, as nearly as may be, be the same as in the case of any other inquiry which the Board is authorized to make, but the Board may regulate the proceed-



ings and the manner of conducting them as to the Board may seem meet. 1932, c. 27, s. 135.

**82.**—(1) Wherever a strike or lockout of the employees of any railway or public utility company or corporation occurs, or is threatened, the Board shall proceed as soon as practicable to the locality thereof and endeavour by mediation to effect an amicable settlement of the controversy. To mediate in case of strikes.

(2) Wherever there exists any such strike or lockout by reason of which, in the opinion of the Board, the general public is likely to suffer injury or inconvenience with respect to food, fuel, light or power, or the means of communication or transportation, or in any other respect, and the parties to such strike or lockout will not consent to submit the matters in controversy to the Board, the Board, after having first endeavoured to effect a settlement by conciliatory means and having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lockout, and shall make public its findings with such recommendations to the parties as, in its judgment, will contribute to a fair and equitable settlement of their differences, and in the prosecution of such inquiry the Board shall have all the powers conferred upon it by section 81. Inquiry into cause of dispute and suggesting terms of settlement. 1932, c. 27, s. 136.

## PART VI.

### PRACTICE AND PROCEDURE.

#### *Notices. Evidence.*

**83.** Any notice required or authorized to be given in writing,— Notice, requisites of.

- (a) by the Board, may be signed by the chairman or secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. 1932, c. 27, s. 137.

Notices,—  
how served.

**84.**—(1) Any notice required to be given to a company, municipality, corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor,—

Railway  
company.

(a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

Muni-  
cipality.

(b) in the case of a municipality, to the head of the municipality, or to the clerk;

Other  
companies.

(c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office;

Co-partner-  
ship.

(d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and

Individuals.

(e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

Service by  
publication.

(2) If, in any case within the jurisdiction of the Board, it is made to appear, to the satisfaction of the Board that service of any such notice cannot conveniently be made, in the manner provided in subsection 1, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper, and such publication in each case shall be deemed to be equivalent to service in the manner provided in the said subsection.

Service  
of other  
documents.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. 1932, c. 27, s. 138.

Duty of  
company on  
receipt of  
notice or  
order.

**85.** Every company, municipality or corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report

or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. 1932, c. 27, s. 139.

**86.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sittings of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. 1932, c. 27, s. 140.

Duty of  
sheriffs, etc.

**87.** Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. 1932, c. 27, s. 141.

Effect of  
documents  
issued by  
company.

**88.**—(1) Every document purporting to be signed by the chairman and secretary, or by either of them, or by an inspecting engineer, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to the company and all parties interested, if served in the manner provided by section 84 for service of notice, that such document was duly signed and issued by the Board, or inspecting engineer, as the case may be.

Evidence of  
documents.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence of such regulation, order, direction, decision or report, and, when served in the manner provided by section 84, shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service. 1932, c. 27, s. 142.

Evidence of  
regulations,  
etc., etc.

**89.**—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, of or any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of such original document,

Certified  
plan, etc.,  
*prima facie*  
evidence.

and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

Certified  
copies of  
documents  
of Board.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of such regulation, order or document, without proof of the signature of the secretary. 1932, c. 27, s. 143.

Publication  
of regula-  
tions and  
orders.

**90.** Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette*, and while the same remains in force, shall have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. 1932, c. 27, s. 144.

Judicial  
notice.

Notice of  
application.

**91.** Unless otherwise provided, ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, but the Board may in any case direct longer or permit shorter notice of the application. 1932, c. 27, s. 145.

Procedure  
in urgent  
cases when  
no notice  
given.

**92.**—(1) When the Board is authorized to hear an application, complaint, or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties, and such order or decision shall be as valid and take effect in all respects as if made on due notice.

When  
rehearing in  
such cases  
may be had.

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just. 1932, c. 27, s. 146.



*Orders of Court.*

**93.**—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and shall thereupon become and be enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may be nevertheless rescinded or varied by the Board. Enforcement of orders.

(2) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. 1932, c. 27, s. 147. Board may select method of enforcing order.

*Terms of Orders.*

**94.**—(1) The Board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event. Contingent orders.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. 1932, c. 27, s. 148. Interim orders.

**95.** Upon any application to the Board, the Board may make an order granting the whole, or part only, of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if such application had been for such partial, other, or further relief. 1932, c. 27, s. 149. May grant partial or other relief than that applied for.

**96.** The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. 1932, c. 27, s. 150. Interim ex parte orders.

Extension  
of time  
specified in  
order.

**97.** When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case, in its opinion, so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. 1932, c. 27, s. 151.

*General Rules.*

Power to  
make rules.

**98.** The Board may make general rules regulating its practice and procedure. 1932, c. 27, s. 152.

*Other Provisions.*

Presumption  
of jurisdiction  
to make  
order.

**99.** An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order. 1932, c. 27, s. 153.

Effect of  
finding of  
fact in  
another  
court.

**100.**—(1) In determining any question of fact the Board shall not be concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Jurisdiction  
not affected.

(2) Subject as in this Act is otherwise provided the pendency of any action, prosecution or proceeding in any other court involving questions of fact shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Effect of  
finding of  
fact.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. 1932, c. 27, s. 154.

Stating  
case for  
opinion of  
Court of  
Appeal.

**101.**—(1) The Board may, at the request of the Lieutenant-Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question which, in the opinion of the Board, is a question of law.

Action  
thereon.

(2) The Court of Appeal shall hear and determine such special case and remit the same to the Board with the opinion of the Court thereon. 1932, c. 27, s. 155.

**102.** The Lieutenant-Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested having been first heard, vary or rescind any order, decision, rule or regulation of the Board whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application, and any order which the Lieutenant-Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties. 1932, c. 27, s. 156.

**103.**—(1) Subject to the provisions of Part IV, an appeal shall lie from the Board to the Court of Appeal upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the Court within one month after the making of the order or decision sought to be appealed from or within such further time as the Court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

(2) Upon such leave being obtained the registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down, and the appeal shall be heard by such Court as speedily as practicable.

(3) On the hearing of any appeal the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

(4) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

(5) The Supreme Court shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the Court of Appeal shall be applicable to appeals under this Act.

(6) Subject to the provisions of Part IV, when the matter in controversy exceeds the sum or value of \$4,000 or re-

Lieutenant-Governor in Council may rescind orders or regulations.

Appeal on questions of jurisdiction.

Notice of appeal.

Opinion of Court.

Board may be heard by counsel.

Rules of court as to cost, etc.

Appeals to Privy Council in certain cases.

lates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or to any demand of a general or public nature affecting future rights, an appeal shall lie from the Court of Appeal to His Majesty in His Privy Council, but no appeal shall lie to His Majesty in His Privy Council in any other case, except by leave of His Majesty.

No appeal  
in certain  
cases.

Rev. Stat.,  
c. 272.

(7) No appeal shall lie to His Majesty in His Privy Council, from any decision of the Court of Appeal upon an appeal from the Board under *The Assessment Act*.

Members of  
Board not  
liable for  
costs.

(8) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section.

Decisions of  
Board to be  
final.

(9) Save as provided in this section and in section 102,—

(a) every decision or order of the Board shall be final; and,

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. 1932, c. 27, s. 157.

Costs.

**104.**—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed at any case at a sum certain or may be taxed.

Taxation.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Scale.

(3) The Board may prescribe a scale under which such costs shall be taxed. 1932, c. 27, s. 158.

Witness fees.

**105.** Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 1932, c. 27, s. 159.



**106.**—(1) The Board may charge and collect such fees <sup>Fees for copies, certificates, etc.</sup> as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same.

(2) All fees charged and collected by the Board shall be <sup>Payment over to Province.</sup> paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. 1932, c. 27, s. 160.

**107.** There shall be paid in law stamps upon every order <sup>Fees on orders of Board to be paid in stamps.</sup> made by the Board such sum as it may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, and the order may be made an order of the Supreme Court. 1932, c. 27, s. 161.

## PART VII.

### MISCELLANEOUS.

#### ANNUAL REPORT OF BOARD.

**108.**—(1) The Board shall make an annual report, on or <sup>Annual report.</sup> before the 31st day of March in each year, to the Lieutenant-Governor, which shall contain,—

- (a) a record of its meetings and an abstract of its pro- <sup>Contents.</sup>ceedings during the preceding calendar year;
- (b) a statement of the result of any examination or investigation conducted by it;
- (c) such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of Ontario, and such suggestions as to the general railway policy of the Province, of the amendments of its laws, or the condition, affairs or conduct of any railway or street railway as may seem to it advisable;
- (d) such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient;
- (e) a statement in detail of its disbursements;

- (f) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways, subject to this Act; and,
- (g) such matters as the Lieutenant-Governor in Council directs.

Laying  
report before  
Assembly.

(2) The Lieutenant-Governor shall lay the report before the Assembly forthwith if then in session, or if not then in session within fifteen days after the commencement of the next session. 1932, c. 27, s. 162.

Publishing  
information  
without  
leave.

**109.** If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he shall incur a penalty not exceeding \$500 for such offence and shall also be liable to imprisonment for any term not exceeding six months. 1932, c. 27, s. 163.

Penalty.

Powers of  
Hydro-  
Electric  
Power Com-  
mission.  
Rev. Stat.,  
c. 62.

**110.** Nothing in this Act contained shall confer upon the Board any jurisdiction as to matters which, under *The Power Commission Act*, are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. 1932, c. 27, s. 164.

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## 5. PUBLIC WELFARE.

### CHAPTER 61.

#### The Department of Public Welfare Act.

1. In this Act,—

Interpreta-  
tion.

- (a) "Department" shall mean the Department of Public Welfare. "Depart-  
ment."
- (b) "Minister" shall mean the member of the Executive Council for the time being in charge of the Department. 1931, c. 5, s. 2. "Minister."

2. There shall be a department of the public service of Ontario to be known as the "Department of Public Welfare" over which the Minister shall preside and have charge. 1931, c. 5, s. 3. Creation of  
Department  
of Public  
Welfare.

3. The Department shall administer such Acts, and regulations made thereunder, as may be provided therein or as may from time to time be designated by the Lieutenant-Governor in Council. 1931, c. 5, s. 4. Jurisdiction  
of  
Department.

4. The Department may,—

Powers of  
Department.

- (a) institute inquiry into and collect information and statistics relating to all matters of public welfare;
- (b) disseminate information in such manner and form as may be found best adapted to promote public welfare;
- (c) secure the observance and execution of the provisions of all Acts and regulations dealing with matters of public welfare;
- (d) investigate, inspect and report upon all activities, agencies, organizations, associations or institutions having for their object the social welfare or care of

men, women and children in Ontario and which are not under the control of any other department of the public service of Ontario;

- (e) recommend to the Lieutenant-Governor in Council regulations respecting welfare institutions, organizations, or agencies and governing the soliciting of alms, food, clothing, moneys and contributions of any kind for charitable or benevolent purposes in Ontario. 1931, c. 5, s. 5.

Annual  
report.

5. The Department shall submit to the Lieutenant-Governor in Council an annual report upon the affairs and work of the Department as he may require, and such report shall be laid before the Assembly within twenty-one days after the commencement of the next session. 1931, c. 5, s. 6.

Control over  
charitable  
institutions.

6. The Lieutenant-Governor in Council upon the recommendation of the Minister may from time to time declare any charitable institution or class or classes of charitable institutions to be subject to the control of the Minister and may with respect thereto make regulations relating to any such charitable institution or institutions and their affairs and particularly in respect to the procuring of funds from the public and as to their application. 1931, c. 5, s. 7.

Appoint-  
ment of  
inspectors.

7. The Lieutenant-Governor in Council may upon the recommendation of the Minister appoint any officer of the Department as an inspector for the purposes of any Act administered by the Department, where provision is not made in such Act for the appointment of an inspector, and an inspector so appointed shall have such powers and perform such duties as may from time to time be prescribed by the Lieutenant-Governor in Council. 1931, c. 5, s. 8.

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6. *HYDRO-ELECTRIC POWER DEVELOPMENT*

## CHAPTER 62.

## The Power Commission Act.

## INTERPRETATION.

1. In this Act, unless the contrary intention appears,— Interpreta-  
tion.
- (a) "Commission" shall mean The Hydro-Electric Power Commission of Ontario; R.S.O. 1927, c. 57, s. 1, cl. (a). "Commis-  
sion."
- (b) "Land" shall mean real property of whatsoever nature or kind, and shall include tenements, hereditaments and appurtenances, and any estate, term, easement, right or interest in, to, over, under or affecting land; "Land."
- (c) "Owner" shall include mortgagee, lessee, tenant, occupant, or any person entitled to a limited estate or interest, and a guardian, committee, executor, administrator or trustee in whom land or any property or interest therein is vested; 1931, c. 13. s. 2. "Owner."
- (d) "Power" shall include hydraulic, electrical, steam, gas or other power and shall also include energy; "Power."
- (e) "Supply" shall include delivery, dealing in, and sale; 1935, c. 54, s. 2 (2). "Supply."
- (f) "Works" shall include all property, plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, transformation, transmission, distribution, delivery, sale or use of hydraulic, electrical, steam, gas or other power or energy; R.S.O. 1927, c. 57, s. 1, cl (b); 1935, c. 54, s. 2 (1). "Works."

"From time to time."

(g) if a power is conferred or a duty imposed on the Commission, the power may be exercised and the duty shall be performed from time to time as occasion requires. R.S.O. 1927, c. 57, s. 1, cl. (c).

## PART I.

### THE COMMISSION.

Constitution of Commission.

**2.** The Commission, as now constituted, shall, for the purposes herein mentioned, continue to be a body corporate, and shall consist of three persons appointed by the Lieutenant-Governor in Council, two of whom may be members, and one of whom shall be a member, of the Executive Council of Ontario. R.S.O. 1927, c. 57, s. 2.

Chairman.

**3.** The Lieutenant-Governor in Council may appoint one of the members of the Commission to be chairman of the Commission, and two members shall form a quorum. R.S.O. 1927, c. 57, s. 3.

Quorum.

Tenure of office.

**4.** Every person appointed to the Commission shall hold office during pleasure, and the Lieutenant-Governor in Council, upon the death, resignation or removal from office of any member of the Commission, may appoint some other person in his place. R.S.O. 1927, c. 57, s. 4.

Vacancies.

Remuneration of Commissioners.

**5.—(1)** An amount not exceeding \$45,000 may be paid annually for the services of the chairman and the other members of the Commission, who shall receive from the said amount such sums as may be determined by the Lieutenant-Governor in Council, and the said sums shall be deemed to be part of the administration expenses of the Commission.

Seat in Assembly not vacated.

**(2)** Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the chairman or of any other member of the Commission, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by the said Act for sitting and voting as a member of the Assembly. R.S.O. 1927, c. 57, s. 5.

Rev. Stat., c. 12.

Officers and employees.

**6.—(1)** The Commission may appoint a chief engineer, an accountant and a secretary, and such other officers and employees as may be deemed requisite, and determine their salaries and other remuneration. R.S.O. 1927, c. 57, s. 6 (1).

- (2) (a) The salaries, remuneration and expenses of persons appointed or employed by the Commission, as well as any other expenses of the Commission, shall be apportioned by the Commission among, and shall be chargeable to, the various works and undertakings carried on by the Commission upon which such persons are employed, but any portion of such salaries, remuneration and expenses which are not properly chargeable to such works or undertakings and which are earned or incurred in the performance of work or services other than those rendered in respect of works or undertakings of the Commission under contract with municipal corporations shall be chargeable to and payable out of such moneys as may be appropriated for that purpose by the Legislature. R.S.O. 1927, c. 57, s. 6 (2).

Apportionment of salaries and expenses.

- (b) Expenditure heretofore or hereafter incurred by the Commission,

- (i) for works or services in carrying out the directions of the Lieutenant-Governor in Council or for which the Commission has had other proper authority and which have not already been included in the cost of power to municipalities under contract with the Commission but which, in the opinion of the Commission, have proved or may ultimately prove beneficial to municipal corporations under contract with the Commission for a supply of power, or to municipal corporations which may from time to time thereafter enter into such contracts;

Certain expenditures to be included as part of cost of supplying power.

- (ii) deemed necessary or desirable by the Commission in the interests of municipal corporations then or that may thereafter be under contract with the Commission for a supply of power, in carrying on, promoting or extending the operations of the Commission in connection with the generation, distribution or supply of power or for any work or service deemed by the Commission incidental thereto,

may be included by the Commission as part of the cost of supplying electrical power or energy to any of such corporations, and shall be apportioned by the Commission as provided in this section and section 61. 1929, c. 20, s. 2.

- (3) The apportionment by the Commission of such salaries remuneration and expenses shall be final.

Apportionment to be final.

No action  
against  
Commission  
without  
consent of  
Attorney-  
General.

(4) Without the consent of the Attorney-General, no action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office.

(NOTE.—*For Statutory interpretation of this subsection, see 1937, chapter 58.*)

Non-liability  
for errors  
in estimates,  
plans, etc.

(5) Neither the Province nor the Commission nor any member thereof shall incur any liability by reason of any error or omission in any estimate, plan or specification prepared or furnished by the Commission. R.S.O. 1927, c. 57, s. 6 (3-5).

Commission  
property  
exempt.

(6) No property of the Commission, or which is vested in the Commission, or to which the Commission may in any way be entitled, shall be subject to any process of law or proceeding for the purpose of satisfying or enforcing any judgment or order of any court of this Province heretofore or hereafter given, made, entered or issued, and for the purpose aforesaid, the Commission shall have with respect to all its property all the exemptions, privileges and immunities which are possessed by the Crown with respect to the property of the Crown.

No process  
to issue  
against  
Commission.

(7) No execution, garnishment, attachment, receivership, sequestration, or any process of law or proceeding for satisfying or enforcing any judgment or order of any court of the Province heretofore or hereafter given, made, entered or issued against the Commission shall issue or be taken against the Commission or against any member, officer or servant of the Commission, or against any property of the Commission.

No process  
to be  
executed  
against  
Commission.

(8) No sheriff, bailiff, officer of any court, or other person whosoever, shall, by himself or by his agent, servant or employee, execute or carry out, or assist in executing or carrying out, any execution, garnishment, attachment, receivership, sequestration or any process of law or proceeding against the Commission, or against any member, officer or servant of the Commission, or against any property of the Commission, for enforcing or satisfying any judgment or order of any court of the Province heretofore or hereafter given, made, entered or issued against the Commission.

Judgment  
or order not  
to create or  
constitute  
debt or  
liability.

(9) No judgment or order heretofore or hereafter given, made, entered or issued by any court of the Province against the Commission shall create or constitute a debt or liability of the Commission. 1937, c. 59, s. 2.



## ANNUAL REPORT.

7.—(1) The Commission shall, before the 1st day of <sup>Annual report.</sup> March in each year, make to the Lieutenant-Governor in Council, for the information of the Assembly, an annual report, which shall contain, among other things, clear and comprehensive statements disclosing and exhibiting— <sup>Statements showing—</sup>

- (a) the actual condition as to the amount and character <sup>Assets and liabilities.</sup> of the assets and liabilities (direct and indirect) of the undertakings conducted by it as on the 31st day of October last preceding;
- (b) a statement with respect to each system or under- <sup>Capital expenditures in year.</sup> taking operated or controlled by the Commission showing—
  - (i) the cash advances in the fiscal year ending on the 31st day of October last preceding, by the Province of Ontario to the Commission, for the construction of works;
  - (ii) the amounts expended by the Commission in the fiscal year, out of such cash advances, on construction of works, and the balance remaining unexpended in the hands of the Commission on the 31st day of October last preceding;
- (c) a statement with respect to the operations of each <sup>Operations of each system.</sup> system for the fiscal year ending on the 31st day of October last preceding, showing—
  - (i) the proportion of the capital cost of the works of the system, allocated or apportioned to each municipality comprised in such system;
  - (ii) the cost to each municipality, as provided to be paid under section 61, of the power supplied thereto in the fiscal year, including its proportionate part of the operating, maintenance and administrative expenses, interest, and provisions for renewal of works and obsolescence, sinking funds and contingencies;

(iii) the amount received from each municipality on account of the cost of power supplied in the fiscal year, and the amount remaining to be paid by, or standing to the credit of, each municipality;

(iv) the amount of profits earned or losses sustained by each system from sale of power to other than municipal corporations;

Accumulated  
balances.

(d) a statement with respect to each system, showing the accumulated amount remaining to be paid by, or standing to the credit of, each municipality comprised in such system as on the 31st day of October last preceding;

Sinking  
funds.

(e) a statement with respect to each system, showing the amount standing to the credit of each municipality on sinking fund account (including the sums contributed by it) as at the 31st day of October last preceding;

Indebtedness  
to Commis-  
sion.

(f) a statement of the amount of the indebtedness due or owing by each municipal or other corporation or person to the Commission in respect of—

(i) construction of works, sale of electrical equipment, apparatus or supplies, and services rendered;

(ii) power bills;

(iii) other indebtedness, if any;

and such statement shall also indicate the debts that are three months or more overdue;

Other  
matters.

(g) such other matters as may appear to be of public interest in relation to the Commission or its works as the Lieutenant-Governor in Council may direct.

Form of  
statements.

(2) The said statements shall be in form approved of by the Lieutenant-Governor in Council, and shall contain such information and particulars as he shall require, and shall be signed by the chairman or vice-chairman of the Commission. R.S.O. 1927, c. 57, s. 7.

## AUDIT.

8.—(1) The accounts of the Commission shall, upon the direction of the Lieutenant-Governor in Council, be from time to time, and at least once every year, audited and reported upon by an auditor or auditors named in the direction of the Lieutenant-Governor in Council. Audit of accounts.

(2) The expenses of such audits shall be fixed by the Commission, with the approval of the Lieutenant-Governor in Council, and shall be payable by the Commission as part of the costs of administration of the Commission. R.S.O. 1927, c. 57, s. 8. Expenses of audits.

## INCOME AND EXPENDITURES.

9. The income of the Commission shall be applied by the Commission to the necessary operating expenses, to the preservation, improvement, supervision, renewal, repairs, maintenance and insurance of its works, and to the payment of the remuneration and expenses of the Commissioners, and the salaries of officers and others employed by the Commission, and to such other purposes as may be authorized or required by this Act. R.S.O. 1927, c. 57, s. 9. Application of income of Commission.

10. All special funds and the income and revenue thereof and all moneys and revenues which now are in or shall come into the hands of the Commission, whether as agent, trustee, owner or otherwise, shall form one fund to be called "general fund," and the Commission shall have power to make any and all expenditures out of the said fund for the purposes and objects of the Commission without regard to the special trusts or purposes under which the said fund or any part thereof may come into its hands, and the Commission shall account for and pay out of the said fund all moneys for which it shall be so accountable. R.S.O. 1927, c. 57, s. 10. "General fund." Expenditures out of.

11.—(1) The Commission may retain and set apart out of moneys coming into its hands such sums as may, in the opinion of the Commission, be sufficient for the following purposes,— Reserve fund for,—

- (a) to provide for the renewal, reconstruction, alteration and repair of works constructed or operated by the Commission; Renewals;
- (b) to meet interest upon working capital and for the operations of the Commission under sections 43 and 56, and to meet obligations, charges and expenses arising from time to time in the course of such operations; Interest and charges;

Obsolescence;

- (c) to meet any expenditures or costs caused by or arising from injury to, or destruction, obsolescence or loss of use of any works or other property of the Commission or otherwise incurred or payable by the Commission;

Insurance.

- (d) to provide its own funds as insurance against loss or damage to any property of the Commission or loss or damage to the persons or property of others caused by, or arising from the works or operations of the Commission.

Use of moneys.

(2) The Commission may expend, use, apply, utilize and appropriate the moneys retained and set apart under subsection 1, or any part thereof, for any of the purposes of the said subsection. 1937, c. 60, s. 2.

Stabilization fund account.

**12.**—(1) An account to be known as the “stabilization fund account” shall be opened and maintained on the books of the Commission and the Commission may place to the credit of such account,—

- (a) such amounts as the Commission may determine and collect for the purposes of this section from its customers;
- (b) interest at such rates as the Commission shall deem equitable and just upon balances remaining from time to time to the credit of the account;
- (c) any surplus, or balance or money or credit, or such portion thereof as the Commission may determine, howsoever or whenever accumulated or acquired, and notwithstanding the purpose or purposes for which or the manner in which the moneys may have been collected or may have been held, and whether or not it is or includes a surplus balance or credit held for or to the credit of any municipality or rural power district in any manner, under section 64 or otherwise.

Transfers.

(2) Any such surplus, balance or credit now held by the Commission in any account or accounts may at any time or times in the discretion of the Commission be transferred to the said stabilization fund account.

Use of moneys.

(3) Any or all of the moneys in the said stabilization fund account may be used in the discretion of the Commission for determining, and for adjusting and apportioning (includ-



ing making equitable and stabilizing) the amounts payable to the Commission by municipal corporations or persons.

(4) Costs and expenses incurred by the Commission which, in the opinion of the Commission, are for the protection or advancement of the interests in the undertakings under its supervision or control and are not properly chargeable to any system or to any municipal corporation under contract with the Commission may be charged by the Commission to the stabilization fund account. 1937, c. 60, s. 3.

Items chargeable to account.

#### INVESTMENT OF FUNDS.

**13.**—(1) The Commission may, in its discretion, invest any funds, not required in carrying out the objects of the Commission, in the debentures or other securities of the Dominion of Canada or of the Province of Ontario, or in securities guaranteed by the Province of Ontario.

Investment of funds in Government securities.

(2) Subsection 1 shall not apply to sinking funds. R.S.O. 1927, c. 57, s. 12.

As to sinking funds.

#### SINKING FUNDS.

**14.** The Commission shall annually set apart as a sinking fund,—

Sinking fund.

(a) such sums as are received by the Commission from municipal corporations under the provisions of clause (c) of section 61, and section 62;

(b) such sums as are appropriated by the Commission for sinking fund purposes out of the revenues received from other corporations and persons under contract with the Commission for a supply of power. R.S.O. 1927, c. 57, s. 13.

**15.**—(1) All sums received by the Commission from municipal corporations and others on sinking fund account for repayment of the advances made by the Province to the Commission shall,—

Application of receipts on sinking fund account.

(a) to the extents respectively set out in Schedule A to this Act; and

(b) to such further extent as may be necessary to repay any advances hereafter made by the Province to the Commission in annual sums which with interest thereon at the rate of four per centum per annum will be sufficient to meet such advance within a

period of forty years which period shall commence one year from the end of the fiscal year in which such advance is made or in case postponement is authorized under section 16, then within forty years from the end of the fiscal year in which such postponement terminates,

be paid by the Commission to the Treasurer of Ontario annually on or before the 31st day of October in each year and shall be credited to the Commission. R.S.O. 1927, c. 57, s. 14 (1); 1928, c. 19, s. 2.

Repayments  
to Province  
out of funds  
in hands of  
Commission.

(2) Notwithstanding anything in this Act, the Commission may, in addition to the repayments out of sinking fund provided for under subsection 1, make further repayments on account of the advances by the Province to the Commission from time to time out of funds in its hands. 1930, c. 12, s. 3.

Where  
sinking fund  
collections  
exceed re-  
quirements.

(3) Where the amounts collected by the Commission in any year on sinking fund account for the repayment of advances made by the Province to the Commission exceed the amount required to be paid over to the Treasurer of Ontario under subsection 1 for such year, such excess amount shall be invested by the Commission in securities issued by or guaranteed by the Province of Ontario and such securities shall be delivered by the Commission to the Treasurer of Ontario as collateral security for the repayment of advances made by the Province to the Commission, and the Lieutenant-Governor in Council may from time to time direct that any securities so held by the Treasurer shall be sold and converted and the proceeds thereof credited to the Commission on account of any sums payable by the Commission on sinking fund account under subsection 1.

Application  
of other  
receipts on  
sinking fund  
account.

(4) All sums received by the Commission from municipal corporations and others on sinking fund accounts for repayment of other indebtedness incurred or assumed by the Commission in respect of the cost of works may be used or employed by the Commission to pay off such indebtedness, but any portion of such sums not so used or employed shall be invested by the Commission in securities issued by, or guaranteed by the Province of Ontario.

Application  
of interest  
receipts in  
excess of  
four per  
cent.

(5) Interest earnings in excess of four per centum per annum upon the investment of the sinking funds shall be credited as a revenue to the municipal corporations in proportion to the amount standing to their credit on sinking fund account. R.S.O. 1927, c. 57, s. 14 (2-4).

**16.**—(1) The Lieutenant-Governor in Council may authorize the Commission to postpone the collection or setting apart of any sums on sinking fund account to provide for the cost of any works newly constructed, acquired or performed for such period, not exceeding ten years, as may be deemed advisable. R.S.O. 1927, c. 57, s. 15; 1929, c. 20, s. 3.

(2) For the purposes of this section "works" shall, in addition to the meaning given to it in section 1, mean and include preliminary reports, surveys, investigations, engineering, accounting or organization work or service, or any other work or service in connection with or incidental to any proposed construction or development. 1929, c. 20, s. 3.

#### PENSION FUND

**17.**—(1) The Commission, with the approval of the Lieutenant-Governor in Council, may establish and maintain a fund for the payment of superannuation allowances or allowances upon the death or disability of its employees, and may make regulations providing for contributions to the fund by the Commission and by its employees, and for the terms and conditions upon which any superannuation or other allowance shall be payable and the persons to whom the same may be paid.

(2) The cost to the Commission of maintaining and administering any such fund shall be deemed part of the cost of the administration of the Commission and shall be chargeable accordingly. R.S.O. 1927, c. 57, s. 16.

(3) (a) The Commission may continue to extend the provisions of subsection 1 to each employee of The Sandwich, Windsor and Amherstburg Railway to whom the Commission was extending the said provisions on the 21st day of September, 1934, but shall be under no obligation to do so if the required contributions to the said fund in respect of such employee cease to be paid to the Commission for any cause other than death or retirement on pension.

(b) Any such employee though still remaining an employee of the railway may at any time withdraw from the said fund upon giving to the Commission thirty days' prior notice in writing.

(c) Any such employee who withdraws from the said fund or who for any cause other than death or retirement on pension ceases to be an employee of the railway shall, so far as relates to the said fund, be deemed

to have left the service as in the case of contributing employees leaving the Commission's service, and may not again be included among those to whom this subsection applies.

Effective though Commission not operating railway.

- (d) This subsection shall have effect notwithstanding that the Commission ceased to operate the said railway on the 22nd day of September, 1934, but only so long as the railway continues to be operated on behalf of or in trust for one or more municipalities.

Prior Acts confirmed.

- (e) The extension of the provisions of subsection 1 by the Commission to employees of the said railway prior to the date this Act comes into force is hereby confirmed and declared to be legal and valid. 1937, c. 60, s. 4 (1).

Municipal employees may be included in fund.

Rev. Stat. c. 286.

**18.** The Commission, with the approval of the Lieutenant-Governor in Council, may enter into an agreement with the corporation of any municipality receiving power from the Commission for including in the said fund employees of any commission established under *The Public Utilities Act*, or under this Act, for the management and control of works for the distribution of electrical power or energy in the municipality, upon such terms as to the contribution by a municipal corporation and otherwise as may be deemed expedient. R.S.O. 1927, c. 57, s. 17.

#### REPORT ON WATER POWERS.

Commission to report on water powers, etc., when required.

**19.** Whenever required by the Lieutenant-Governor in Council so to do, the Commission shall inquire into, examine and investigate water powers or water privileges in Ontario and report upon the value and capacity thereof, with such other information as the Lieutenant-Governor in Council may require. R.S.O. 1927, c. 57, s. 18.

#### ACQUISITION OF PROPERTIES.

Report of Commission as to—

**20.** The Commission may report to the Lieutenant-Governor in Council, designating,—

Acquiring works, etc.

- (a) the land, water, water privileges or water powers, or the land and works, or portion thereof, of any person owning or holding under lease or otherwise, or developing, operating or using a water privilege or water power, or transmitting electrical or other power or energy in Ontario which, in the opinion of the Commission, should be purchased, acquired, leased, taken, expropriated, developed, operated or used by the Commission for the purposes of this Act; or,



- (b) the quantity of the product of any person generating electrical power or energy in Ontario or bringing such power or energy into Ontario for use or transmission therein which the Commission requires for the purposes of this Act. R.S.O. 1927, c. 57, s. 19.

Quantity  
of power.

**21.**—(1) The Lieutenant-Governor in Council may authorize the Commission at any time and from time to time, to acquire by purchase, lease, or in any other manner, or without the consent of the owner thereof to enter upon, take possession of, expropriate and use, any land, lake, river, stream or other body of water or watercourse, and temporarily or permanently to divert or alter the boundaries or course of any lake, river, stream or other body of water or watercourse, or raise or lower the level of the same or flood or overflow any land. 1931, c. 13, s. 3, *part*.

Power may  
be given to  
Commission.

(2) In particular, but without limiting the generality of subsection 1, the Lieutenant-Governor in Council, upon the recommendation of the Commission, may authorize the Commission to,— 1931, c. 13, s. 3, *part*.

Power may  
be given to  
Commission.

- (a) Acquire by purchase, lease or otherwise, land, waters, water privileges, water powers, and works, used for, or adapted or useful for, or capable of being used or made useful for generating, transforming or transmitting electric power or energy; enter upon, take possession of, expropriate, acquire and use such land, waters, water privileges, water powers and works, without the consent of the owner thereof, or of any person in any manner entitled to any right, title, interest, claim or demand therein; and have and hold the same, however acquired or obtained, and develop, utilize, use, maintain, operate and improve them for any of the purposes of this Act; 1937, c. 60, s. 5.
- (b) acquire by purchase the whole or any part of the property, assets and undertaking of Dominion Power and Transmission Company Limited, including shares held or owned by the said company in any other company or companies of any kind or nature whatsoever, and to acquire the whole or any part of the properties, assets and undertakings of such other company or companies and to maintain and operate any property or properties so acquired;
- (c) acquire by purchase, lease or otherwise, and construct, maintain and operate, works for the production of electrical power or energy by the use of coal, oil or any other means whatsoever;

To acquire  
lands, water  
powers and  
works.

To acquire  
Dominion  
Power and  
Transmission  
Company  
Limited.

To acquire  
and con-  
struct works  
for produc-  
tion of  
electricity.

Works on  
inter-  
provincial  
boundaries.

- (d) acquire by purchase, lease or otherwise, lands, waters, water privileges, water powers and works upon or adjacent to the boundary line between Ontario and any other province and situate in Ontario or in such other province, or partly in one and partly in the other of them, and erect, construct, maintain and operate upon any lands so acquired, works for the production and transmission of electrical power or energy, and enter into agreements with the Crown as representing such other province, or with any commission or department of the Government of such other province, or with any corporation or person interested in or affected by such works as to the terms and conditions upon which such works shall be carried on and any rights so acquired be exercised;

Acquiring  
shares in  
companies  
operating on  
such  
boundaries.

- (e) acquire by purchase in the open market or otherwise shares or stock of any company owning or controlling any such lands, waters, water privileges, water powers or works;

To acquire  
plant for  
transmission  
of power.

- (f) construct, maintain and operate, and acquire by purchase, lease or otherwise, or, without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use, all erections, machinery, plant and other works and appliances for the transmission, supply and distribution of electrical power or energy; and conduct, store, transmit and supply electrical power or energy and steam for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors or other conductors or devices, receive, conduct, convey, transmit, distribute, supply or furnish such electrical power or energy and steam to or from any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over or under the land of any person;

To contract  
for supply  
of power to  
Commission.

- (g) contract with any person generating, transmitting or distributing electrical power or energy, or proposing so to do, to supply electrical power or energy to the Commission, and require any person generating, transmitting or distributing electrical power or energy to supply so much thereof as the Commission may require;

- (h) enter upon, take and use, without the consent of the owner thereof, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water which, in the opinion of the Commission, is capable of improvement or development for the purpose of providing water power, and construct such dams, sluices, canals, raceways and other works as may be deemed proper or expedient for the said purposes, and flood and overflow any land to the extent to which the Commission may deem necessary for the purpose of providing storage of the water or for any other purpose in connection with such works, and contract with any municipal corporation, company or individual for the use of any of the improvements or works so made, on such terms and conditions as may be agreed upon;
- (i) enter upon, take and use, without the consent of the owner thereof, any land which may, in the opinion of the Commission, be necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Commission or by any municipal corporation or for the relief of the municipal corporation from liability for damages for the flooding or overflowing of such lands; but subject to the provisions of subsections 1 and 2 of section 32, the proceedings taken under this clause shall be at the sole expense of the municipal corporation, and the Commission may convey the lands so acquired to such corporation or make such other disposition thereof with the consent of such corporation as may be deemed expedient;
- (j) acquire by purchase or expropriate any plant, machinery, appliances, wires, poles and other equipment, and the land occupied by or used in connection therewith or any part thereof, used or intended for the distribution of electrical power or energy in a municipality, the corporation of which has entered into an agreement with the Commission for the supply of electrical power or energy, and contract for the sale and transfer to such municipal corporation of such plant, equipment and land upon such terms and for such price, not being less than the price paid by the Commission, with the expenses in connection with such purchase or expropriation added thereto, as may be agreed upon; but if part only of the property is taken the damage done to the pro-

To flood lands and improve water powers.

To acquire flooded lands on behalf of municipality.

To acquire distributing plant.

perty by the severance shall be taken into consideration in determining the compensation;

Purchasing  
shares in  
companies.

- (k) acquire from time to time by purchase in the open market or otherwise, shares or stock in or the securities of any incorporated company carrying on the business of developing, distributing or transmitting electrical power or energy and for the purposes of this Act the acquisition of such shares, or stock, or securities shall be an investment in works;

To acquire  
stock in  
develop-  
ment  
companies.

- (l) acquire by purchase or otherwise on any terms and hold shares in any incorporated company carrying on the business of developing, supplying or transmitting electrical power or energy, and in connection with any such acquisition enter into any covenants and agreements, and pay for any such shares either in cash or in bonds, debentures or other securities of the Commission, and guarantee, or covenant or agree for or in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any company shares in which are so acquired, or of any company shares in which are held by any company in which shares are so acquired, and for the purposes of this Act the acquisition of shares of such companies shall be deemed to be an investment in works;

To lease  
or operate  
works of  
others.

- (m) lease or operate the works for the generation, transmission, distribution or use of electrical energy of any person, firm or corporation on such terms as the Commission may arrange with the owner;

To issue  
bonds, etc.,  
for above  
purposes.

- (n) issue bonds, debentures or other securities of the Commission for any of the purposes set out in this section, in such form and containing such terms and at such rate of interest and payable in such manner and at such time or times as the Lieutenant-Governor in Council may determine.

The Com-  
mission to  
have powers  
of Minister  
of Public  
Works.

- (3) In relation to all matters authorized by the Lieutenant-Governor in Council under any of the provisions of this section, the Commission shall have, and may exercise and enjoy, in addition to the powers conferred by this or any other Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act*, and in the application of this section, where the words "the Minister," "the Department" or "the Crown" appear in the said Act, they shall, where the context permits mean and include the Commission.

Rev. Stat.,  
c. 54.



(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Commission, signed by the secretary or by an Ontario land surveyor, the land so described shall thereupon become and be vested in the Commission.

Mode of perfecting title.

(5) Except as otherwise provided in this Act the Commission shall, in the exercise of its compulsory powers, authorize by this section and section 28, proceed in the manner provided by *The Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation shall *mutatis mutandis* apply.

Procedure.

Rev. Stat., c. 54.

(6) Where the Commission elects to have the compensation determined by the Ontario Municipal Board, under the provisions of section 28 of *The Public Works Act*, the Board shall, in addition to the powers conferred upon it by the said section 28 of *The Public Works Act*, and by *The Ontario Municipal Board Act*, have the power, upon the application of the Commission or the owner, to direct the filing and serving of pleadings, and particulars thereof, and to direct discovery and production as in actions in the Supreme Court, and in accordance with the rules of practice in that behalf.

Powers of Board.

Rev. Stat., cc. 54, 60.

(7) The Lieutenant-Governor in Council may direct that any authorization to the Commission heretofore or hereafter given shall be retroactive, when the same shall be deemed to have taken effect from the time so fixed.

Authorizations may be retroactive.

(8) No act or proceeding of the Commission pursuant to any authorization of the Lieutenant-Governor in Council under this section shall be restrained by injunction or other process or proceeding in any court. 1931, c. 13, s. 3 *part*.

Exercise of powers not to be enjoined, etc.

**22.**—(1) Notwithstanding anything in this or any other Act, whenever the Commission has been authorized by the Lieutenant-Governor in Council to exercise any of the powers set out in clause *f* of subsection 2 of section 21, it may proceed under the following provisions of this section.

Mode of exercising and extent of powers.

(2) The Commission may, without notice or without the deposit of any plan or description or any prerequisite or preliminary action or formality, and with or without the consent of the owner thereof, enter upon, take possession of and use for such time as the Commission may deem desirable any land which the Commission may deem to be required for the due exercise of the powers so authorized.

Commission may enter, etc., without notice.

Compensation.

(3) Compensation shall be made to the owner for the land taken or used and for all damage to property resulting from the exercise of the said powers, and in fixing such compensation regard shall in all cases be had to the value of the land taken, or to the nature and extent of the estate, right, privilege, easement, or interest which the Commission decides to take and acquire in, over, upon or in respect of the land as the case may be, and the compensation shall be based thereon.

Rev. Stat.,  
c. 54.  
How far to  
apply.

(4) Where the amount of the compensation has been agreed upon or fixed or otherwise determined, all of the provisions of *The Public Works Act* as to the payment or other disposition and application of the compensation or money payable in respect of the land, right or easement taken by the Commission shall, *mutatis mutandis*, apply.

Appointment  
of and  
powers of  
valuator.

(5) The Lieutenant-Governor in Council may from time to time appoint some suitable person as a valuator, who shall receive his reasonable and necessary travelling and other expenses and such salary as may be fixed by the Lieutenant-Governor in Council, and the same shall be paid by the Commission as part of its general administration expense, and when no agreement is arrived at as to the amount of compensation to be paid to the owner, the valuator shall as soon as conveniently may be after a request to him either from the owner or the Commission, secure from the Commission a description of the land, right or easement which the Commission requires or has taken from the owner and make such inquiries and inspection and procure such expert advice as he may think desirable and in accordance with subsection 3 fix and determine the compensation to be paid for such land, right or easement, or property damage, and notify by registered letter the owner and the Commission of such finding.

Appeal from  
valuator.

(6) Either the owner or the Commission, if dissatisfied with the amount of the compensation so fixed, may appeal within thirty days after the mailing of the notice of finding by the valuator by giving notice to the other that an appeal is desired from the same.

Who to hear  
appeals.

(7) An appeal from the valuator shall be heard and determined by the Ontario Municipal Board or a member thereof, provided however that the Lieutenant-Governor in Council may from time to time designate a judge of the Supreme Court or a judge of a county or district court to hear and dispose of any such appeal or appeals, and where the Commission gives notice to the owner that an appeal shall be determined by a judge instead of by the Board or a member

thereof, the judge designated shall hear and determine such appeal, and if a judge is so designated he shall receive his reasonable and necessary travelling expenses and such fee as may be fixed from time to time by the Lieutenant-Governor in Council and the same shall be paid by the Commission as part of its general administration expense.

(8) The judge or the Board or any member thereof, as the case may be, shall appoint such time and place and give such notice of the hearing of appeals as may be thought proper and most convenient and such judge or Board or any member thereof shall for the purposes of this section have all the powers which are conferred upon the Ontario Municipal Board by sections 41 and 44 of *The Ontario Municipal Board Act* and the provisions of that Act with respect to procedure and the enforcement of orders made thereunder from time to time shall, *mutatis mutandis*, apply.

Powers of  
judge or  
Board on  
appeal.

Rev. Stat.,  
c. 60.

(9) In the notice of appeal the appellant shall set out the amount which the appellant deems proper to have been fixed by the valuator and if, where the owner is the appellant, he fails to recover anything more than the amount fixed by the valuator, or if, where the Commission is the appellant, it fails to have the amount so fixed reduced, then the costs of the proceedings as between party and party shall be payable by the appellant, and if, under the provisions of this subsection, the costs are payable to the Commission, the same may be deducted from the compensation payable.

Costs of  
appeal.

(10) The costs of the proceedings may be fixed by the judge or Board or member thereof at such amount as may be deemed proper, due regard being had however to the difference between the amount fixed by the valuator and the amount awarded by the judge or Board or member thereof, or may be directed to be taxed upon the scale of the division, county or Supreme Court scale, as the case may be, and, if it appears on such appeal that the claim to compensation put forward by the owner is grossly excessive, and the expense of the Commission has been thereby increased, the judge or Board or member thereof may fix and allow to the Commission by way of set-off against such costs as may be awarded to the owner hereunder, the amount of such excess expense.

Scale of  
costs.

(11) The owner shall, upon reasonable notice, attend at a place to be fixed by the Commission, and execute such necessary instruments or documents as the Commission may require upon tender to him of the Commission's cheque for the

Mode of  
perfecting  
title.

amount awarded by the judge or Board or member thereof or fixed by the valuator, and costs, if any, less such costs as may have been awarded against him, and in the event of his failing to attend and execute such instruments or documents, or if for any reason the Commission deems it desirable, the Commission may file in the registry office or land titles office, as the case may be, in the district or county in which the land affected is situate, a plan and description of the land, right or easement so taken, signed by the secretary of the Commission, or by an Ontario land surveyor, and thereupon such land, right or easement shall be and become vested in the Commission. 1931, c. 13, s. 3 *part*.

Appeals.

**23.**—(1) In cases under section 22, either the Commission or the owner may, subject to the provisions of subsection 2 of section 25, appeal to the Court of Appeal from the order of the judge or the Board or member thereof, and, in all other cases, either the Commission or the owner may appeal to the Court of Appeal from the order of the judge or the Board as the case may be.

Rev. Stat.,  
c. 60,  
to apply.

(2) Where the appeal is taken under the provisions of subsection 1, section 103 of *The Ontario Municipal Board Act* as to appeals from the Board shall apply. 1931, c. 13, s. 3 *part*.

Removal of  
trees and  
obstructions  
beside right-  
of-way.

**24.** The powers conferred upon the Commission by or under the authority of this Act, shall include the right to enter upon any land upon either side of the right-of-way acquired for the transmission or distribution lines or works of the Commission, or upon any land upon either side of such lines or works, and to fell or remove any trees or branches thereof or any other obstruction upon any such land or upon any public highway or place which, in the opinion of the Commission, it is necessary to fell or remove, but subject always to the payment of compensation as provided in section 22, and the said section shall apply to the exercise of the powers mentioned in this section; provided, however, that where the lines or works of the Commission are situate upon a highway, whether it be the King's Highway or any other highway, compensation shall be payable only to the extent to which it is payable by a municipality for felling or removing trees or branches thereof under and by virtue of section 511 of *The Municipal Act*. 1931, c. 13, s. 3 *part* 1937, c. 60, s. 6.

Rev. Stat.,  
c. 266.

Owner to  
give notice  
of crop  
damage.

**25.**—(1) Notwithstanding anything in section 22 where a claim is made against the Commission for damage to crops, gardens, shrubs, trees or other growing things, caused by or incidental to the construction, maintenance or repair of



poles, wires, towers or works included in or connected with power transmission lines, notice of such claim shall be given in writing, signed by the claimant at as early a date as possible, and so that the nature, character, extent and evidence of the damage may still be apparent, and in any case, not later than sixty days after the cause for complaint arose.

(2) If a claim is made after the time limited by subsection 1, and the claimant has failed to give the notice therein required, either the Commission or the owner may, notwithstanding such failure, request the valuator to attend and investigate the damage complained of, and the valuator, if satisfied that there was reasonable excuse for the failure to give or the insufficiency of, the notice, and that the Commission was not thereby prejudiced, may award such compensation as may appear to him to be just and in that event the finding of the valuator shall be final and binding upon the owner and the Commission. 1931, c. 13, s. 3 *part*.

Effect of failure to give notice.

**26.** In the exercise of the powers conferred and in carrying out any work authorized by this Act or any other general or special Act, the Commission has and always has had authority to carry its wires along, upon, under and across any public highway or street, and to erect poles and put down conduits and all other structures necessary for that purpose, and to take down, remove, or take up the same without taking any of the proceedings prescribed by this Act for the taking of land without the consent of the owner thereof, and the provisions of this Act with regard to compensation for lands so taken shall not apply, but the location of any poles, conduits, lines or other structures of the Commission to be hereafter erected, put down or constructed upon a highway shall be agreed upon by the Commission and the municipal corporation or other authority having control of the highway, or in case of disagreement shall be determined by the Ontario Municipal Board. 1931, c. 13, s. 3 *part*.

Powers of Commission as to wires, poles and conduits.

**27.** Wherever in the course of constructing, reconstructing, altering or improving any highway it becomes necessary to take up, remove or change the location of poles, wires, conduits, transformers or other appliances or works placed on or under a highway by the Commission, the costs and expenses incurred in such work shall be apportioned and paid in the manner provided by sections 2 and 3 of *The Public Service Works on Highways Act*, and the said section shall apply to the Commission in the same manner and to the same extent as to a municipal corporation, commission, company, or individual owning or operating appliances or works mentioned in the said section. 1931, c. 13, s. 3 *part*.

Cost of improvements.

Rev. Stat., c. 57.

Buildings.

**28.**—(1) The Commission may expropriate, purchase, lease or otherwise acquire lands which the Commission may deem necessary for office, service, or other buildings, and may erect thereon such buildings and works as the Commission may require for its purposes.

Expense repayable by municipalities.

(2) All expenditures by the Commission for the purposes mentioned in subsection 1 shall be repayable to the Commission by the municipal corporations having contracts with the Commission, and shall be repaid by annual sums sufficient to form in forty years a sinking fund for the repayment of the cost thereof. 1931, c. 13, s. 3 *part*.

Disposal of works to a municipality.

**29.**—(1) The Commission, upon such terms as it deems proper, may lease, sell or otherwise dispose of to a municipal corporation or commission any works or any interest therein which the Commission is or has been using and which it deems advisable to so dispose of as aforesaid.

Acquiring property from municipality.

(2) The Commission may acquire from a municipal corporation or commission by purchase, lease or otherwise, upon such terms as the Commission may deem proper, any works or other property, real or personal, which the Commission may deem advisable for its purposes and such municipal corporation or commission may lease, sell, or otherwise dispose of such works or other property to the Commission without the assent of the electors or the approval of the Ontario Municipal Board required by section 32 of *The Public Utilities Act*, but otherwise such municipal corporation or commission shall comply with the said section 32.

Rev. Stat., c. 286.

Joint use of works.

(3) The Commission, upon such terms as it deems proper, may contract with any corporation, firm or person for joint ownership or joint use of works or for rights to use the works of any corporation, firm or person or to permit any corporation, firm or person to use works of the Commission and for the purposes of this subsection, works shall include telephone and telegraph lines and other communication works either of the Commission or of any other corporation, firm or person in addition to the things mentioned in clause (f) of section 1.

Sale of property.

(4) The Commission may, upon such terms as it deems proper, sell, lease or otherwise dispose of any property, real or personal, which it may deem unnecessary for its purposes. 1937, c. 60, s. 7.

Abandonment of lands after expropriation.

**30.**—(1) Where any of the compulsory powers mentioned in section 21 are exercised with respect to land, and no entry on or use of the land taken has been made, except for the purpose

of survey or examination, the Commission, at any time before the expiration of three months from the date of the award, may, by writing under the hand of the chairman and the seal of the Commission, registered in the proper registry or land titles office, declare that the land or any part thereof is not required and is abandoned by the Commission, and thereupon the land declared to be abandoned shall revert in the person from whom it was taken, or in those entitled to claim under him.

(2) Where the land taken, or any part thereof, is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and where part only of the land is abandoned the fact of such abandonment and the damages, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation, and the amount of the damages, shall, subject to the provisions of section 22, be determined in the manner provided by *The Public Works Act*, and if a reference as to compensation is pending, shall be determined on such reference. 1931, c. 13, s. 3 *part*.

Total  
abandon-  
ment.

Partial  
abandon-  
ment.

Rev. Stat.,  
c. 54.

**31.** The compulsory powers conferred by this Act shall extend to land, works, rights, powers, privileges and property notwithstanding that they are or may be deemed to be devoted to a public use or that the owner thereof possesses the power of taking land compulsorily, and notwithstanding and regardless of the origin, nature and source of the owner's title thereto, and of the manner whereby it was acquired by the owner or any of his predecessors in title. 1931, c. 13, s. 3 *part*; 1937, c. 60, s. 8.

Extent of  
powers of  
expropria-  
tion.

**32.—**(1) Where in the exercise of the powers conferred by this Act the Commission constructs any works or improvements upon any lake, river, stream or other body of water the Lieutenant-Governor in Council may direct a judge of the Supreme Court or the judge of the county or district court to inquire into and determine the proportion in which any municipal or other corporation, company or individual owning a water power or water power site, whether developed or not, is benefited by such works or improvements and the judge may make an order fixing the proportion in which the cost of such works and improvements shall be borne by any such municipal or other corporation, company or individual and by the Province respectively.

Adjustment  
of propor-  
tions of cost  
of works on  
waters.

Apportionment of costs of works heretofore constructed.

(2) Where under an agreement or any instrument purporting to be an agreement with a municipal corporation the Commission has heretofore constructed works or improvements upon any lake, river, stream or other body of water and it appears to the Lieutenant-Governor in Council that such works or improvements are or may be of benefit to, or increase the value of the land of any individual or corporation other than such municipal corporation, the Lieutenant-Governor in Council may direct a judge of the Supreme Court, or a judge of a county or district court, to inquire into and determine the proportion in which such municipal corporation and any such individual or other corporation are or may be respectively benefited or the value of the land of any of them increased by such works or improvements, and the judge may make an order fixing the proportion in which the cost of such works or improvements shall be borne by the municipal corporation party to any such agreement or instrument, and by any such individual or corporation and by the Province respectively, and may fix such proportion without regard to the terms of such agreement or instrument.

Powers of judge on inquiry.

(3) The judge, upon an inquiry under this section, shall have the like powers as a judge sitting in court, including the power to compel the attendance of witnesses, to hear evidence on oath and to require the production of books, papers, documents, matters and things and the order of the judge shall be enforceable in the manner provided by *The Judges' Orders Enforcement Act*.

Rev. Stat., c. 123.

Costs.

(4) No costs shall be awarded to any party appearing before the judge or otherwise interested in the inquiry.

Fees and expenses.

(5) The judge shall be paid such fees and expenses as shall be fixed by the Lieutenant-Governor in Council.

Cost of works, etc.,—what to include.

(6) For the purposes of this section the cost of the works or improvements shall be deemed to include all expenditures, charges and expenses as fixed by the Commission made or incurred by it in respect of the construction of such works or improvements, extensions and additions thereto, interest charges, operating expenses, repairs and maintenance, down to the date of the order of the judge, the fees and expenses of the judge and the expenses incurred by the Commission in connection with the inquiry.

Appeal.

(7) Any person, or any municipal or other corporation affected by the order made under the authority of subsection 1 or subsection 2 may, with the consent in writing of the Commission, appeal from such order to the Court of Appeal.



- (8) (a) The Commission may establish a sinking fund to be provided by the parties in the proportions directed by the order of the judge sufficient to discharge and pay off the cost of such works or improvements and such of the capital cost as may be incurred from time to time by the Commission after the date of the order of the judge within such periods as the Commission may fix, having regard to the life of such works or improvements and not exceeding forty years.
- (b) The Commission shall, subsequent to the order of the judge, annually fix and determine the cost, charges or expenses incurred by it from time to time in the operation, maintenance, repair and renewal of such works and shall apportion and charge the same against the parties in the proportions fixed by the order of the judge, together with the payments in respect of sinking fund hereinbefore mentioned and the amounts so charged shall be payable on demand recoverable in the manner hereinafter provided.
- (9) In fixing the amounts so payable the Commission shall give credit for any amount theretofore contributed to the cost of such works and improvements by a municipal or other corporation or by any individual.
- (10) The amount so found payable by a municipal corporation shall be recoverable in the like manner as in the case of a charge for any other service rendered by the Commission to a municipal corporation and in the case of any other corporation or of an individual the amount so found due shall constitute a debt due to the Commission and shall be recoverable in any court of competent jurisdiction from the owners from time to time of the lands so found by the order of the judge to be benefited by such works or improvements and shall constitute a lien or charge upon such lands enforceable in the same manner and by the same proceedings as nearly as may be as in the case of a charge in favour of the Crown.
- (11) Where a proportion of the cost of such works and improvements is to be borne by the Province the amount due from time to time in respect thereof shall be payable out of any moneys appropriated by the Legislature for that purpose.
- (12) When the proportions in which the cost of such works or improvements is to be borne have been fixed by order of the judge or of the Court of Appeal, such order shall be final and binding unless and until it shall appear to the Commission that owing to change of circumstances or conditions

Sinking fund.

Annual apportionment of costs by Commission.

Allowance for previous expenditure.

Recovery of amount assessed.

Share of Province,—how payable.

Effect of order.

in respect of such works or improvements it is equitable that there should be a readjustment of the proportions theretofore fixed by the order of the judge and in that case, upon the application of any person liable to contribute to the cost of such works or improvements, made with the consent in writing of the Commission, the judge may make further inquiry and may readjust such proportions to be thereafter applied in such manner as he may deem just and equitable, subject to appeal as hereinbefore provided. 1931, c. 13, s. 3 *part*.

Limitations  
Act not  
applicable.

Rev. Stat.,  
c. 118.

**33.** Where possession of land of the Commission has been taken by some other person, the right of the Commission, or anyone claiming under it, to recover it, shall not be barred by reason of the lapse of time, notwithstanding the provisions of *The Limitations Act*, or of any other Act of this Legislature, or by reason of any claim based on possession adverse to it for any period of time which might otherwise be made lawfully at common law, unless it is shown that the Commission had actual notice in writing of such adverse possession, and such notice was had by it ten years before it or the said person claiming under it commenced action to recover the said land; provided that no claim shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, water-course or use of water or water right or privilege or flooding privilege of the Commission, or to any way, easement, water-course, or use of water, or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of the Commission, notwithstanding the provisions of *The Limitations Act* or any other Act of this Legislature or any claim at common law based on lapse of time, or length of enjoyment or use. 1937, c. 60, s. 9.

#### TAXATION.

Lands of  
Commission  
to be  
taxable.  
Rev. Stat.,  
c. 272.

**34.**—(1) Notwithstanding anything in *The Assessment Act*, land owned by and vested in the Commission shall be subject to assessment and taxation for municipal and school purposes at the actual value thereof according to the average value of the land in the locality.

Buildings,  
works, etc.,  
to continue  
to be  
exempt.

(2) Subject to the provisions of subsection 3, subsection 1 shall not apply to or include buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles, and other property, works or improvements owned, used or controlled by the Commission, or to an easement or the right of use or occupation or other interest in land not owned by the Commission, but all such buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles,

and other property, works or improvements owned, used or controlled by the Commission, and every such easement or right, shall continue to be exempt from assessment and taxation as heretofore.

(3) Where the Commission is carrying on the business of selling by retail electrical goods, supplies or appliances it may be assessed and shall thereupon be liable to taxation in respect of such business and the land and buildings owned or occupied for the purposes thereof in the same manner and to the same extent as a retail merchant carrying on the same business. Retail shops to be taxable.  
R.S.O. 1927, c. 57, s. 31.

(4) Notwithstanding anything in *The Assessment Act*, *The Ontario Municipal Board Act*, *The Department of Municipal Affairs Act*, or *The Tax Sales Confirmation Act, 1936*, or any other Act of this Legislature, where land which was or is subject to easements, ways, rights of way or entry, flooding rights, licenses or rights to maintain works thereon, owned by or belonging to the Commission, has at any time before or after the coming into force of this Act been sold for taxes, or in respect of which a tax arrears vesting certificate has at any time before or after the coming into force of this Act been registered under the authority of section 109 of *The Ontario Municipal Board Act, 1932*, or section 43 of *The Department of Municipal Affairs Act*, such easements, ways, rights of way or entry, flooding rights, licenses, or rights to maintain works shall be deemed not to have been affected and shall not be affected by the sale or registration. 1937, cc. 272, 60, 59. Easement over lands sold for taxes not affected.  
Rev. Stat., cc. 272, 60, 59.

#### ADVANCES AND LOANS.

**35.** The Lieutenant-Governor in Council may raise by way of loan in the manner provided by *The Provincial Loans Act* such sums as the Lieutenant-Governor in Council may deem requisite for the purposes of this Act, and such sums may be paid over to the Commission and shall be accounted for and audited in the manner provided for in this Act. Government authorized to raise funds necessary for work of Commission.  
R.S.O. 1927, c. 57, s. 32. Rev. Stat., c. 22.

**36.** Where the Legislature has appropriated money for the purposes of the Commission, such money shall be payable out of such appropriation to the Commission from time to time, upon the requisition of the chairman of the Commission and the direction of the Lieutenant-Governor in Council, in such amounts and at such times as shall be stated in the requisition and direction, and this section shall have effect notwithstanding that there may be sums due from the Com- Payment over to Commission of moneys appropriated.

Rev. Stat.,  
c. 24.

Where  
appropria-  
tion is  
exhausted,  
special  
warrant  
may issue.

mission to the Province and notwithstanding anything in *The Audit Act*. R.S.O. 1927, c. 57, s. 33.

**37.** Where the appropriation made by the Legislature for any work of the Commission shall become exhausted in any fiscal year, and the chairman of the Commission reports to the Lieutenant-Governor in Council that it is necessary and expedient that such work shall be proceeded with and that an additional amount is required for that purpose, the Lieutenant-Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required in such fiscal year, and when issued such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Commission for such sums as shall be required. R.S.O. 1927, c. 57, s. 34.

Interest on  
advances by  
Province.

**38.** The Commission shall pay annually to the Treasurer of Ontario, as interest on the indebtedness of the Commission to the Province, such sum as may be from time to time determined by the Lieutenant-Governor in Council to be sufficient to reimburse the Province the full amount of interest paid by the Government on moneys raised for the purposes of the Commission and the charges incurred by the Government in providing such money. R.S.O. 1927, c. 57, s. 35.

General  
borrowing  
powers.

**39.**—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may borrow money and issue notes, bonds, debentures and other securities or do any of these things for any of the purposes of the Commission.

Purposes of  
Commission  
shall  
include.

(2) The said purposes of the Commission shall, without limiting the generality thereof, include,—

- (a) repayment on account of the advances by the Province to the Commission;
- (b) payment, refunding or renewal from time to time of the whole or any part of any loan made or securities issued by the Commission under the provisions of this or any other Act;
- (c) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Commission.

May borrow  
net sum.

(3) For the purposes specified in subsection 2 the Commission may borrow and may issue as aforesaid in such



amounts as will realize the net sum required by the Commission for such purposes and a recital or declaration in the resolution or minutes of the Commission authorizing the issue of securities to the effect that the amount of securities so authorized is necessary to realize the net sum required for the purposes of the Commission shall be conclusive evidence of the fact.

(4) The Commission on such terms and conditions as it <sup>Commission may sell or pledge.</sup> deems advisable may sell or otherwise dispose of any such notes, bonds, debentures and other securities, may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security and may do any of these things.

(5) Any such securities dealt with as collateral security <sup>Reissue of securities.</sup> when redelivered to the Commission or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Commission again becomes entitled to such securities, may be treated by the Commission as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Commission may deem advisable, or at its option may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences, and upon such issue or reissue any person entitled thereto shall have the same rights and remedies as if the same had not been previously issued.

(6) The Commission on such terms and conditions as it <sup>Commission may pledge securities.</sup> deems advisable may charge, pledge, hypothecate, deposit or otherwise deal with as collateral security any bonds, debentures or other securities in which it has invested its funds as in section 13 provided. 1935, c. 54, s. 5.

**40.** The Lieutenant-Governor in Council is hereby authorized, on such terms as may be approved by Order-in-Council, to agree to guarantee the payment of the principal and interest of any bonds, debentures and other securities issued by the Commission, and the form and manner of any such guarantee or guarantees shall be such as the Lieutenant-Governor in Council may approve, and the said guarantee or guarantees shall be signed by the Treasurer of Ontario, or such other officer or officers as may be designated by the Lieutenant-Governor in Council, and upon being so signed, the Province of Ontario shall become liable for the payment of the principal and interest of the bonds, debentures and <sup>Guaranteeing bonds of Commission.</sup>

securities guaranteed, according to the tenor thereof, and the Lieutenant-Governor in Council is hereby authorized to make arrangements for supplying the money necessary to fulfil the requirements of the said guarantee or guarantees, and to advance the amount necessary for that purpose, out of the public funds of the Province, and, in the hands of any holder of any such bonds, debentures or securities, any guarantee so signed shall be conclusive evidence that the terms of this section have been complied with. R.S.O. 1927, c. 57, s. 37.

Guarantee-  
ing perform-  
ance of  
contract for  
purchase of  
shares.

**41.** The Lieutenant-Governor in Council may, on behalf of the Province of Ontario, enter into any covenants or agreements in connection with the acquisition by the Commission of any shares in any incorporated company, and guarantee the observance and performance by the Commission of any contract or agreement of the Commission in relation to such acquisition. R.S.O. 1927, c. 57, s. 38.

Guarantee  
by Province  
of advances  
from banks,  
etc.

**42.** The Lieutenant-Governor in Council may guarantee the repayment of advances made by banks, or any other indebtedness incurred by the Commission. R.S.O. 1927, c. 57, s. 39.

#### BUSINESS OPERATIONS.

Commission  
may  
purchase  
and sell  
supplies.

**43.**—(1) The Commission may, out of any funds in its hands, purchase such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the transmission, distribution, supply or use of electrical power or energy, and may dispose thereof to municipal corporations and commissions, and to other persons, firms and corporations.

Manufac-  
turing and  
dealing in  
supplies.

(2) The Lieutenant-Governor in Council, upon the request of the Commission specifying,—

(a) the nature and volume of the business to be carried on; and

(b) the extent of the liability which may be incurred in connection therewith;

may authorize the Commission within the Province of Ontario to manufacture such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of electrical power, and to acquire patents of invention, or interests therein, and to sell and dispose of such machinery, appliances, furnishings or patent rights, and the profits and

losses arising from such operation shall be adjusted and apportioned among the municipalities having contracts with the Commission, or be otherwise applied as the Commission shall see fit. R.S.O. 1927, c. 57, s. 40 (1-2).

(3) The Commission may,—

Doing work  
for contract-  
ing munic-  
ipalities, etc.

- (a) undertake and carry out the preparation of plans, specifications and estimates for, and the construction, erection, installation and putting down of, any plant, machinery, and other things;
- (b) purchase supplies, wires, poles, and other things;
- (c) render engineering or other service,

for the generation, purchase, transmission, distribution, supply or use of electrical power or energy for light, heat or power purposes, or for the manufacture, procuring, producing, supply or use of any other public utility, by a municipal corporation or commission, or by any other corporation or any person, and the Commission may charge and collect from such corporation, commission or person the cost of any work done or service rendered by the Commission under this subsection. R.S.O. 1927, c. 57, s. 40 (3); 1929, c. 20, s. 5.

(4) Subject to the approval of the Lieutenant-Governor in Council the Commission, out of any funds in its hands, may undertake and carry on investigation, experiments, research, development and other work in or for the generation, transformation, transmission, distribution, supply, sale or use of hydraulic, electrical, steam, gas or other power or energy and may use and apply the results thereof, and may undertake and carry on any electro-chemical, chemical, or physical process and, without limiting the generality thereof, electrolysis, reduction, synthesis and conversion of water and other resources, their constituents and compounds and the development and manufacture of products therefrom.

Work for  
extending  
use of  
electricity.

(5) The Commission may acquire any patent or license, or interest in any patent or license and may use or supply or dispose of by sale, lease, hire, license or otherwise any such patent, license or interest and any product, article or commodity produced, used, acquired or found in the operations of the Commission and any right to or interest in any process or the right to use the same.

Dealing  
in patents  
and  
products.

(6) The Commission may do any or all of the things authorized in this section and as principals, agents, contractors,

Power to  
act with  
others.

trustees or otherwise and either alone or in conjunction with others, and a municipal corporation or commission may act as agent for the Commission.

Profits to  
reduce cost  
of power.

(7) Any net profit obtained by the Commission from anything authorized in this section shall be applied as the Commission shall deem equitable towards reduction in the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or energy. 1935, c. 54, s. 6.

By-products,  
sale of, to  
reduce cost  
of power.

**44.** Where, in the course of the operations of the Commission, any commodity is produced as a by-product or is found upon property vested in the Commission, the Commission may sell or otherwise dispose of such commodity at such prices and upon such terms as it may deem proper, and any revenue so obtained shall be applied in reduction of the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or energy from the works or property in connection with which the commodity is produced. R.S.O. 1927, c. 57, s. 41.

Unused  
works may  
be utilized  
to produce  
revenue.

**45.** Whenever any works constructed or acquired by the Commission for the purpose of supplying power or energy are not in use for that purpose, the Commission with the approval of the Lieutenant-Governor in Council may utilize them for such revenue producing purposes as it may deem proper, and any revenue so derived shall be applied in the reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission for the supply of electrical power or energy from such works. R.S.O. 1927, c. 57, s. 42.

## PART II.

### SUPPLY OF POWER.

Application  
to Commis-  
sion for  
supply of  
power to  
municipal  
corporation.

**46.—(1)** Any municipal corporation may apply to the Commission for the transmission and supply to the corporation of electrical power or energy for the use of the corporation and the inhabitants of the municipality for lighting, heating and power purposes, or for any of such purposes, or for any of the purposes mentioned in section 55.

Information  
and esti-  
mates to be  
supplied by  
Commission.

(2) The Commission shall thereupon furnish to the corporation an estimate of the cost per horse-power at which the electrical power or energy can be supplied to the corporation, including an estimate of the cost of the works by means of which the amount of electrical power or energy



required by the corporation is to be supplied, and the Commission may furnish to the corporation, plans and specifications of the works necessary for the distribution of such power or energy by the corporation and an estimate of the cost thereof, and such other information as the Commission may deem advisable.

(3) The corporation may thereupon submit to a vote of the electors of the municipality, in accordance with the provisions of *The Municipal Act*, a question as to securing a supply of electrical power or energy from the Commission, and if a majority of the electors vote in the affirmative, the council of the corporation may, by by-law, authorize the entering into, and the corporation shall thereupon enter into, a contract with the Commission in such form as may be approved by the Lieutenant-Governor in Council, and it shall not be necessary to submit a by-law approving thereof for the assent of the electors and such contract shall be valid and binding.

Vote of  
electors.  
Rev. Stat.,  
c. 266.

Contract  
with Com-  
mission.

(4) Notwithstanding anything in *The Municipal Act* or in any general or special Act, debentures issued or purporting to be issued by a municipal corporation which has entered into a contract with the Commission for a supply of electrical power or energy from the Commission for the purpose of carrying out such contract, or for constructing or equipping works for the development, transmission and distribution of electrical power or energy so supplied, shall not be included in ascertaining the limits of the borrowing powers of the corporation as prescribed by *The Municipal Act*, or in any general or special Act. R.S.O. 1927, c. 57, s. 43.

Debentures  
of contract-  
ing municipa-  
lity not to  
be included  
in ascer-  
taining limit  
of borrowing  
powers.

Rev. Stat.,  
c. 266.

47.—(1) Where under the authority of the Lieutenant-Governor in Council, the Commission has acquired or constructed, is in the process of acquiring or constructing, or may hereafter acquire or construct works for the generation, transmission or distribution of electrical power or energy, wholly or partly in anticipation of a future demand for power in any of the territorial districts of the Province as set forth in *The Territorial Division Act*, and His Majesty and the Commission have entered into an agreement in relation thereto as provided in subsection 2, such works shall be held by the Commission in trust for His Majesty in right of the Province of Ontario.

When title  
to under-  
takings in  
territorial  
districts to  
be in the  
Crown.

Rev. Stat.,  
c. 3.

(2) His Majesty the King may enter into an agreement or agreements with the Commission, relating to any or all of the works mentioned in subsection 1, providing for payment to the Commission out of the Consolidated Revenue Fund of the Province the amounts from time to time by

Agreements  
between the  
Crown and  
the Commis-  
sion as to  
undertakings  
in territorial  
districts.

which the revenues which have been or may hereafter be derived from such works are or may be insufficient to meet in full the annual costs and charges in connection therewith as determined by the Commission, including the items set forth in clauses *a*, *b* and *c* of section 61, and such agreement or agreements when executed by the President of the Executive Council representing His Majesty and the Commission shall be valid and binding on the Province and the Commission respectively.

Terms of agreements.

(3) Such agreement or agreements may provide the time and manner of such payments, the works in respect of which such payments are to be made, the rates of interest on any sums so paid and the repayment of the same out of any surplus thereafter arising from the revenue derived from such works and generally such other matters, things and conditions as may be necessary or incidental thereto.

Union of undertakings.

(4) For the purposes of this section all of such works may be treated as one or more units as the Commission may from time to time determine.

Municipal contracts.

(5) The Commission may contract with any municipal corporation or person for the supply of electrical power or energy from such works at such rates and upon such terms and conditions as the Commission may deem proper. 1933, c. 47, s. 2.

Cost in s. 61 shall not apply.

(6) The contract with a municipal corporation under subsection 5 may provide for the supply of electrical power or energy at fixed rates or price notwithstanding anything contained in section 61, and in such event the provisions as to cost in section 61 and the provisions in other sections of this Act relating to such cost shall not apply to such municipal corporation but otherwise this Act shall apply to such municipal corporation.

Subs. 6 retroactive.

(7) Subsection 6 shall apply to municipal corporations supplied with power from works covered by an agreement authorized under subsection 2, and shall be deemed so to have applied since the 18th day of April, 1933. 1935, c. 54, s. 7.

Right to enter on lands to put up wires, etc.

**48.** A municipal corporation which has entered into a contract for the supply of electrical power or energy by the Commission may, by its officers, agents, servants and workmen, enter into and upon the lands of any person, including lanes, courts, yards and buildings, for the purpose of placing overhead or underground wires with their appurtenances without the consent of the owner or occupant of such pro-

perty, but subject to the payment of compensation for any damage caused thereby, to be determined in the manner provided by *The Municipal Act*, where a municipal corporation enters upon and takes land for the purposes of the corporation, but leave of a judge or payment into court shall not be necessary before the exercise of the powers vested by this section in the municipal corporation. R.S.O. 1927, c. 57, s. 44.

Rev. Stat.,  
c. 266.

49.—(1) Where a municipal corporation has heretofore entered into or hereafter enters into a contract with the Commission to take power, either at the time of entering into the contract or, at any time thereafter, exclusively from the Commission, the municipal corporation shall not grant to any corporation or person any right or franchise to erect or lay down poles, wires, conduits or any other structures or works for the distribution of electrical power or energy in the municipality, either for the use of the municipal corporation or the inhabitants generally, or of any particular person, and every such right or franchise and every agreement therefor granted or entered into with or without the assent of the electors shall be null and void.

Granting of  
franchises  
by municipal-  
ities  
under con-  
tract with  
Commission  
prohibited.

(2) Where it is alleged that any individual or corporation has erected or laid down upon, over or under any street or other highway in a municipality, any poles, wires, conduits or other structures or works for the transmission or distribution of electrical power or energy without the consent of the municipal corporation lawfully given under a by-law of the council thereof, or is continuing to maintain or use any such structures or works upon, over or under any such street or highway without lawful authority, the Lieutenant-Governor in Council, upon the complaint of the municipal corporation or of any ratepayer, or of the Commission, may direct an inquiry by the Ontario Municipal Board or by a commission composed of two judges of the Supreme Court, and the Board or commission may inquire into the matter, and if, as a result of the inquiry, it is found that such structures or works are upon, over or under any street or highway without lawful authority, the Board or commission may order the removal of all such poles, wires, conduits or other structures upon such notice and upon such terms and conditions as the Board or commission may deem just or reasonable, and an order made by a commission under this subsection may be filed with the registrar of the Supreme Court and shall have the same force and effect and be enforceable in the like manner as a judgment of the Supreme Court.

Proceedings  
for ascertain-  
ing rights  
where  
franchise  
claimed.

(3) Any such structure or work shall be deemed to be upon, over or under any street or highway without lawful

When work  
to be deemed  
unlawfully  
upon the  
highway.

authority where no such right or franchise is found to have existed or where the term for which the right or franchise was originally granted has expired, or where such right or franchise was not granted by by-law in compliance with the statutes relating thereto, and no such right or franchise shall be deemed to have been acquired by lapse of time or by any express or implied acquiescence on the part of the municipal corporation, company or individual formerly owning or controlling such street or highway or the lands included therein. 1930, c. 12, s. 8.

#### ENFORCEMENT OF AGREEMENTS.

Enforcement  
of agree-  
ments with  
municipal  
corporations.

**50.** Notwithstanding any provision in the contract or agreement entered into between a municipal corporation and the Commission providing for the determination of questions arising under the contract or agreement, or for the settlement of any dispute between the municipal corporation and the Commission by the Lieutenant-Governor in Council or in any other manner, the Commission may bring an action for any breach of the contract or agreement on the part of the municipal corporation, and the court may in any such action grant an injunction restraining the municipal corporation from doing any act or continuing any such breach, may order the municipal corporation to supply any omission or to do any act required to be done by the corporation under the terms of the contract or agreement, and may award to the Commission such sum as damages for any such breach as the court may consider a fitting penalty to impose upon the municipal corporation therefor. R.S.O. 1927, c. 57, s. 45.

#### POLICE VILLAGES.

Trustees of  
police village  
may contract  
with  
Commission.

**51.—(1)** The trustees of a police village shall, for the purposes of this Part, be deemed a municipal corporation, and may exercise all the powers conferred upon municipal corporations by this Part, and may enter into a contract with the Commission for the supply of electrical power or energy as provided by this Act.

Submission  
of by-law  
to electors.

**(2)** The council of the township or the councils of the townships in which the police village is situate, upon the request of the police trustees, shall submit the question as to the supply of electrical power or energy provided for by section 46, to a vote of the electors of the police village, qualified to vote thereon, and shall, upon the like request, issue debentures as provided by this Act.



(3) The council of the township in which the police village or any part thereof is situate shall annually levy by special rate upon the rateable property in the police village, or in that part of the police village situate in the township, the amounts required to meet the payments to be made to the Commission, and to pay off the debentures issued under subsection 2. R.S.O. 1927, c. 57, s. 46.

**52.**—(1) Where the trustees of a police village have entered into a contract with the Commission for the supply of electrical power or energy, and have heretofore constructed, purchased or acquired, or hereafter construct, purchase or acquire, works for distributing electrical power or energy, and the trustees of the police village desire to extend or improve such works, they may apply to the council of the township for the passing of a by-law for the issue of debentures for such extension or improvement, and the council shall pass the necessary by-law for borrowing such further sums as may be necessary for such extension or improvement, and for levying by an annual special rate upon the rateable property in the police village the sums required for the payment of the debentures issued for the extensions or improvements.

(2) The by-law shall be approved by the Commission before the final passing thereof, but shall not require the assent of the electors.

(3) The said approval may be given if it is shown to the satisfaction of the Commission that the said extension or improvement is necessary or desirable, and that sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon. R.S.O. 1927, c. 57, s. 47.

**53.**—(1) The trustees of a police village shall be a commission for the control and management of works established for the distribution of electrical power or energy in the police village, and shall have and may exercise and perform the like powers and duties as nearly as may be as a commission formed under *The Public Utilities Act* in an incorporated village.

(2) The trustees of a police village shall appoint a competent person to act as secretary-treasurer for the purpose of keeping the accounts of the trustees for the distribution and supply of electrical power or energy and acting as custodian of funds collected by the trustees or received by them from the treasurer of the township for the establishment of works in connection with the distribution of power.

Security.

(3) The secretary-treasurer shall give security for the due accounting of all sums of money coming to his hands and for the payment over to the township treasurer of the sums required from time to time to meet payments coming due for interest and to provide a sinking fund for the payment of any debentures issued for the works undertaken by the trustees under any contract with the Commission.

Audit of accounts.

(4) The accounts of the secretary-treasurer shall be audited by the auditor of the township in which the police village is situate, or if the police village includes parts of two or more townships, then by the auditor of that township having the highest assessment in the police village. R.S.O. 1927, c. 57, s. 48.

#### AREAS IN TOWNSHIPS.

Township distribution works.

Rev. Stat., c. 286.

**54.**—(1) Notwithstanding anything in *The Public Utilities Act*, or in any other Act, the council of a township may pass by-laws,—

Lands and works.

(a) for acquiring real and personal property, and acquiring, constructing, reconstructing, extending and operating works for the development, transmission and distribution of electrical power or energy in the municipality;

Contract with Commission.

(b) for entering into a contract with the Commission, with the assent of the municipal electors of the township qualified to vote on money by-laws, for the supply of electrical power or energy for the use of the municipality and the inhabitants thereof;

General powers.

Rev. Stat., cc. 266, 269, 286.

(c) for exercising, for the said purposes, any of the powers which may be exercised by the municipal council of a town under the authority of *The Municipal Act*, *The Local Improvement Act*, *The Public Utilities Act*, or this Act.

Areas.

(2) The council may, from time to time, with the approval of the Commission, by by-law, set apart an area in the township as to which any of the by-laws passed under subsection 1 may have effect.

Submission of by-law.

(3) The by-law for the establishment of the works mentioned in subsection 1, or for entering into the contract with the Commission, may be submitted to the municipal electors qualified to vote on money by-laws in the area so set apart.

(4) The council, with the approval of the Commission, may, from time to time, by by-law, enlarge or alter the boundaries of any such area, or incorporate with it any other such area. R.S.O. 1927, c. 57, s. 49 (1-4). Alteration of areas.

(5) Where the council has passed a by-law under sub-sections 2 and 3, or subsection 4, the council may issue debentures for the purposes set out in subsection 1, and levy the special rate for the amounts required to be raised on account of principal or sinking fund and of interest for the payment of the said debentures, in the district so set apart, or as enlarged or altered, and notwithstanding anything in *The Municipal Act* or in any other Act it shall not be necessary to obtain the assent of the electors to the by-law for the issue of such debentures. R.S.O. 1927, c. 57, s. 49 (5); 1931, c. 13, s. 4. Debentures. Rev. Stat., c. 266.

(6) The council may establish a commission for the purpose of the construction of the works, and the control and management thereof in the manner provided by section 33 of *The Public Utilities Act*, but the commissioners elected shall be residents of the district so set apart or as enlarged or altered, and it shall not be necessary to obtain the assent of the electors to the establishment of the Commission. R.S.O. 1927, c. 57, s. 49 (6). Commission for construction and management of works. Rev. Stat., c. 266.

#### POWERS OF THE MUNICIPALITIES.

**55.**—(1) In addition to the powers conferred by this Act, a municipal corporation which has entered into a contract with the Commission for the supply of electrical power or energy shall have and may exercise in respect of such power or energy all the powers which are by *The Public Utilities Act* or *The Municipal Act* conferred upon corporations in respect of light and heat, and all the powers which are conferred upon corporations by *The Municipal Act* for contracting debts for any purpose within the jurisdiction of the council thereof, and also the power to expropriate land, making compensation therefor under the provisions of *The Municipal Act*. Supply of light, heat and power. Rev. Stat., c. 286. Rev. Stat., c. 266. Debts. Expropriation.

(2) The council of a municipal corporation may, if it sees fit, submit to the electors a by-law providing for borrowing, by the issue of debentures, the money required for any of the purposes mentioned or referred to in sections 46 and 51 and in this section at the same time as such council submits to the electors a question as to supply of electrical power under section 46, and such by-law for borrowing money may be finally passed either before or after such corporation By-law for borrowing money.

has entered into a contract with the Commission for the supply of electrical power or energy; but the debentures authorized by such by-law shall not be issued until the corporation has entered into a contract with the Commission for the supply of such electrical power or energy.

Supplying power outside of municipality.

(3) A municipal corporation which has entered into a contract with the Commission under this Act may, from time to time, with the approval of the Commission, contract with any other municipal corporation or with any person for the supply or distribution of electrical power or energy in any other municipality, and such other municipal corporation shall have authority to enter into the contract; but a municipal corporation shall not exercise the power conferred by this section in another municipality without the consent of the council thereof. R.S.O. 1927, c. 57, s. 50.

#### CONTRACTS OF COMMISSION.

Supply of power.

**56.**—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may contract with a railway company or a distributing company or with any other corporation or person for the supply of electrical power or energy.

Application of profits.

(2) Any net profit made by the Commission in supplying power under subsection 1, after making provision for the cost of acquiring or constructing and of maintaining the works by means of which the power or energy is supplied, shall be applied in reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission.

Agreements for use of right-of-way of railway, power and transmission companies.

(3) The Commission may, with the approval of the Lieutenant-Governor in Council, contract with a railway company or power or transmission company for the use of its right-of-way and property for the purposes of the Commission. R.S.O. 1927, c. 57, s. 51.

Approval of Lieutenant-Governor in Council not required to certain contracts.

**57.** Notwithstanding anything in section 56, it shall not be necessary to obtain the approval of the Lieutenant-Governor in Council to any contract for a supply of the Commission of electrical power or energy to any person from works which the Commission has acquired or constructed and is operating for the distribution of electrical power or energy. R.S.O. 1927, c. 57, s. 52.

Effect of approval of agreements by Lieutenant-Governor in Council.

**58.** Where the Commission has heretofore entered or shall hereafter enter into an agreement for the supplying of electrical power or energy or for any other work or service to



be done or supplied by or to the Commission, and such agreement has been or shall hereafter be submitted to and approved by the Lieutenant-Governor in Council, such agreement shall thereupon be valid and binding upon the parties thereto and shall not be open to question upon any grounds whatsoever, anything in this Act or in any other Act to the contrary notwithstanding. R.S.O. 1927, c. 57, s. 53.

**59.**—(1) Where the Commission supplies or distributes power directly to the consumer either on its own behalf or by arrangement or under contract with the municipal corporation, the amount payable by the owner or occupant of any building or lot, or part of lot, for the electrical power or energy supplied to him for use therein or thereon, and all rents, rates, costs and charges in connection with the service or supply of such power or energy or the installation of any works for such service or supply shall be a lien and charge upon the building or lot or part of lot in the same manner and to the same extent as municipal taxes on land, and in default of payment the clerk of the municipality, upon being notified in writing by the Commission of the sum due, shall forthwith enter the same upon the collector's roll and it shall be collected in the same manner as municipal taxes on land and upon recovery thereof shall be paid over to the Commission; provided that when a mortgage or lease of the building or lot, or part of lot, in question, has been duly registered prior to an entry upon the collector's roll as above described, the lien and charge hereby created shall rank after advances actually made under such mortgage and after rent accrued due under such lease prior to such entry.

Enforcing payment of arrears of rates and charges.

Lien for rates to be postponed on mortgages or leases prior to entry on roll.

(2) For the purposes of this section, electrical power or energy shall be deemed to be supplied to the consumer not only when it is actually used by the owner or occupant but when it is rendered available or held in reserve for him under the terms of his contract with the Commission or the municipality. R.S.O. 1927, c. 57, s. 54.

When power deemed to be supplied.

**60.** The expenditure by the Commission upon any works undertaken under the provisions of this Act for the benefit of any municipality which has entered into a contract with the Commission shall be repayable to the Commission by such municipality. R.S.O. 1927, c. 57, s. 55.

Repayment by municipalities of expenditures.

**61.** Notwithstanding anything in any general or special Act heretofore passed or in any contract heretofore entered into, and, except where under the terms of any such contract power or energy is to be supplied to a municipal corporation at a fixed price, the price payable for power or energy

Cost of power to municipality.

by any municipal corporation shall be the cost to the Commission, as determined by it, of supplying and delivering power or energy to the corporation, including the corporation's proportion, as adjusted by the Commission, of,—

- (a) the cost of operating, maintaining, renewing and insuring the works and the cost of administration of the Commission;
- (b) interest at the rate or rates payable by the Commission upon the money expended by, or the obligations assumed by, the Commission in the construction or purchase of works, and upon all such other expenditures as the Commission may make under the provisions of this Act and upon working capital;
- (c) an annual sum sufficient to form in forty years, with interest at four per centum per annum, a sinking fund for the repayment of the advances made by the Province of Ontario under this Act for the payment of the cost of the works and also for the repayment of any other indebtedness incurred or assumed by the Commission in respect of the cost of the works; 1928, c. 19, s. 3.
- (d) An amount to be determined by the Commission to be paid for the purposes of sections 11 and 12. 1937, c. 60, s. 11.

Collection of moneys from municipalities on sinking fund account.

**62.** Notwithstanding anything in this Act, a municipal corporation which has entered into or shall hereafter enter into a contract with the Commission for a supply of power may be relieved by the Commission from payment of any sum on account of the sinking fund account for the first five years during which payments are made to the Commission by the corporation under such contract, and the amounts required from such corporation on sinking fund account shall be payable during the then next ensuing forty years. R.S.O. 1927, c. 57, s. 57.

Extending time for payments by municipalities.

**63.** The Commission may, during the first three years after any municipality shall first begin to take power from the Commission, extend the time for payment of any sum payable by a municipality, and such municipality shall pay to the Commission interest on the amount which may be in arrear or for the payment for which time is extended until the payment thereof, at such rate not exceeding seven per centum per annum, as the Commission may determine. R.S.O. 1927, c. 57, s. 58.

**64.** Any surplus held by the Commission to the credit of any municipality may be retained by the Commission as security against future obligations to the Commission of the same municipality for so long during the continuance of the contract of the municipality as the Commission may think fit, but the Commission shall allow to the municipality interest at the rate of four per centum per annum upon the amount of such surplus retained by the Commission. R.S.O. 1927, c. 57, s. 59.

**65.** Where, by contract with the Commission, one or more municipalities have assumed the cost of the purchase of, or works for the development of, electrical energy for the supply of such municipality or municipalities under the provisions of this Act, such municipality or municipalities shall, for the purpose of this Act, be defined as a "system," and the Commission, on such conditions as may be deemed equitable or advisable, may include in any such system one or more other such municipalities, whether already part of any system or not, and may unite any two or more systems into one system, and may join in a system two or more such municipalities whether already part of any system or not, and for the purposes of this section an area set apart under section 54, or a rural power district, may be considered as a municipality. R.S.O. 1927, c. 57, s. 60.

**66.**—(1) Wherever physical connections may be made between any of the systems operating under this Act, the Commission may make the necessary connections so as to divert power from any one system to any other system, and the means of such connection, and the price to be paid by the system receiving such power to the system supplying such power, shall in all cases be determined by the Commission, and the cost of the power so taken by any one system from any other shall be dealt with by the Commission under the provisions of this Act as the cost or part of the cost of the power to be paid by the municipalities forming part of such system, under their contracts with the Commission.

(2) The price payable for power by one system to another shall be collected by the Commission from the system owing the same for the system entitled to receive the same, and all sums so paid to any system shall be applied to the cost of construction, maintenance and operation of such system in such manner as the Commission may direct. R.S.O. 1927, c. 57, s. 61.

**67.**—(1) The Commission shall annually adjust and apportion the amounts payable by municipal corporations under sections 61 to 66.

Annual adjustment of expenditures for municipalities.

(2) The Commission shall also annually adjust and apportion among the municipalities all such expenditures, made by the Commission in exercise of the powers conferred upon the Commission by this Act, as have been incurred for or on behalf of the municipalities.

Adjustment to be final.

(3) The adjustment and apportionment made by the Commission shall be final and binding upon the municipal corporations. R.S.O. 1927, c. 57, s. 62.

### PART III.

#### SUPPLY OF POWER FOR STREET LIGHTING IN TOWNSHIPS.

Petition of residents in an area for supply of power for street lighting.

**68.**—(1) A majority of the resident freeholders according to the last revised assessment roll, residing within the area described in the petition and situated in the township, may petition the council of the township to take the necessary proceedings to procure from the Commission a supply of electrical power or energy for the purpose of lighting the highways in the area described in the petition.

Certificate as to sufficiency of signatures.

(2) The petition shall be accompanied by the certificate of the clerk of the townships stating that the petition is signed by a majority of the resident freeholders in the area described in the petition as shown by the last revised assessment roll.

Application by council to the Commission.

(3) The council of the corporation shall thereupon request the Commission to supply electrical power or energy for the purposes mentioned in the petition.

Estimate of cost to be furnished on request.

(4) Upon such request the Commission shall furnish to the corporation an estimate of the cost of electrical power or energy for the purpose of lighting the highways in the area defined in the petition, and may furnish to the corporation,—

(a) plans and specifications of the works necessary for the distribution of such power or energy;

(b) an estimate of the cost of such works; and

(c) such other information as the Commission may deem advisable. R.S.O. 1927, c. 57, s. 63 (1-4).

Consideration of the estimates, etc., by the council.

**69.**—(1) Within one month after the delivery of the statements and estimates mentioned in section 68, the council shall, at a special meeting called for that purpose, of which



notice shall have been given to each of the petitioners, consider the statements and estimates furnished by the Commission.

(2) If at such meeting the petitioners or any of them desire to withdraw their names from the petition they may do so, and should the remaining names be insufficient to constitute a majority of the resident freeholders in the area described in the petition, no further proceedings shall be taken thereon. Withdrawal of petitioners.

(3) If, at the close of the meeting, there are sufficient names remaining of the petitioners to constitute a majority of the resident freeholders in the area described in the petition, the corporation may, without submitting a by-law to a vote of the electors, and without any of the other formalities required in the case of a by-law under Part II, pass a by-law for entering into a contract with the Commission for the supply of electrical power or energy for the purposes required by the petitioners and may enter into a contract with the Commission for that purpose. R.S.O. 1927, c. 57, s. 64 (1-3). Council may pass a by-law authorizing contract.

(4) Upon similar procedure, the corporation may, from time to time by by-law, enlarge or alter the boundaries of any such area, and thereupon the contract mentioned in subsection 3 shall apply to such area as enlarged or altered, and in the event of the enlarging of such area it shall be necessary only to have a petition from a majority of the resident freeholders in the new area; in the event of alteration of the boundaries of any such area the council, without petition, may, from time to time, by by-law, alter the said boundaries so long as such alteration does not alter by more than ten per centum the amount of the assessment upon which the special rate is raised to meet the cost as mentioned in subsections 5 and 6; in the event of any alteration reducing by more than ten per centum the amount of such assessment the petition must have a majority of the resident freeholders in the area remaining subject to such assessment. R.S.O. 1927, c. 57, s. 64 (4); 1929, c. 20, s. 6 (1). Where areas altered.

(5) The by-law may provide for the issue of debentures of the corporation payable within twenty years from the issue thereof, to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy, and for the levying of a special rate for payment of principal and interest, in the manner provided by *The Municipal Act*, upon the taxable property within the area described in the petition, or within such area as enlarged or altered. Debenture issue. Rev. Stat., c. 266.

Special rate  
on property  
affected.

(6) All moneys required to meet the costs incurred by the corporation under this Part shall be raised, levied and collected by an annual special rate upon the taxable property within the area described in the petition, or within such areas as enlarged or altered. R.S.O. 1927, c. 57, s. 64 (5, 6).

Council may  
assume part  
of cost.

(7) The council of the corporation may, from time to time, by by-law, without the assent of the electors, provide that the whole or such part of the said costs as to the council may seem proper shall be paid by the corporation and while the said by-law remains in force only the moneys required to meet the balance of the said costs shall be raised in the manner prescribed in subsection 6. R.S.O. 1927, c. 57, s. 64 (7); 1929, c. 20, s. 6 (2).

Street  
lighting.

Rev. Stat.  
c. 269.

(8) Notwithstanding that any street lighting in a township may have been undertaken as a local improvement under *The Local Improvement Act*, the council upon the procedure and for the purposes set out in this Part may enter into a contract with the Commission for a new area or enlarge any existing area and include in any such area the whole or any part of the lands specially assessed for the local improvements; thereafter all moneys required to meet the costs at any time incurred by the corporation in respect to street lighting in the area, whether under this Act or *The Local Improvement Act*, shall be raised, levied and collected in the manner prescribed in this Part and it shall not be necessary to levy any special rate under *The Local Improvement Act* to provide for the payments which would otherwise be levied under the said Act in respect of the lands included in the area, and only that part of the cost under *The Local Improvement Act* which is specially assessed on the lands not included in such area shall be collected under that Act. 1929, c. 20, s. 6 (3) *part*; 1931, c. 13, s. 5.

Contract,  
application  
of.

(9) Whenever the corporation shall have entered into contract with the Commission as provided in subsection 3, it shall not be necessary for the corporation to enter into a separate contract with the Commission for any other area in the township, but the corporation may pass a by-law making such contract applicable to any such other area; thereupon such contract shall apply to such other area as fully as if such area had been included in the original petition for such contract.

Extension  
of contract  
to adjoining  
areas.

(10) The council of the corporation may from time to time by by-law without the assent of the electors and without any petition as mentioned in this Part incorporate any such area with any other adjoining area in the township and the

contract with the Commission for the area with which the other area is incorporated shall apply to the whole area.

(11) Wherever any such area is wholly or partly within an area in the township set apart by the council under section 54, the contract, with the approval of the Commission, may be made with the Hydro-Electric Commission of the said area under section 54. 1929, c. 20, s. 6 (3) *parti*. Contract may be made with H.-E. C.

70. All the provisions of Part II, as to the annual payments to be made by corporations which have entered into contracts with the Commission, shall apply to contracts entered into under this Part, and shall extend to the works constructed under the last-mentioned contracts. R.S.O. 1927, c. 57, s. 65. Annual payments to the Commission.

## PART IV.

### DISTRIBUTION OF POWER IN RURAL POWER DISTRICTS.

71. Subject to the approval of the Lieutenant-Governor in Council, the Commission may contract with the municipal corporation of a township, or with the municipal corporations of two or more townships, for the supply and distribution by the Commission of electrical power or energy in the township or townships, and the Commission may, with the approval of the corporation, lay out and define areas, hereinafter called "rural power districts," in the township or townships for the distribution of electrical power or energy, and the Commission may, on behalf of the corporation,— Contracts for supply of power.

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the transmission to, and the transforming and distributing in, any such rural power district of electrical power or energy;
- (b) supply electrical power or energy to customers of the corporation in any such rural power district;
- (c) perform, enjoy and enforce all contracts in which the corporation agrees to supply or sell electrical power or energy to any such customer or at any premises within such rural power district;

and the Commission may unite any two or more rural power districts in one rural power district and may join into a rural power district or may include in a rural power district one or more townships or any part or parts thereof whether already part of any rural power district or not and may alter Alteration of boundaries.

the boundaries of any rural power district. R.S.O. 1927, c. 57, s. 66; 1937, c. 60, s. 12.

Right of  
park board  
to contract  
for power.

**72.**—(1) Subject to the approval of the Lieutenant-Governor in Council, where any Act of this Legislature sets apart lands as a park, and provides for the appointment of a board of commissioners therefor, and makes such board of commissioners a body corporate, such board may purchase from the Commission electrical power or energy for use within the park, and may sell electrical power or energy to customers therein and execute contracts accordingly and the Commission may contract with the board to supply and distribute such electrical power or energy.

When park  
to be rural  
power  
district.

(2) Upon the execution of a contract between the Commission and any such board, the Commission may make any such park a rural power district or part of a rural power district or incorporate the whole or any part of such park in any rural power district and the provisions of this or any other Act applying to a rural power district shall be applicable. 1937, c. 60, s. 13.

Commission  
may take  
over existing  
distribution  
system.

**73.** Whenever the municipal corporation of any such township at the time of entering into the contract has been operating a distribution system for distributing electrical power or energy to inhabitants of the township, or has a contract with the Commission for a supply of electrical power or energy under any other Part of this Act, the Commission, with the approval of the municipal corporation, may take over, acquire, reconstruct, extend and operate such distribution system, and may perform, enjoy and enforce the contracts with the customers thereof, and may incorporate such system in a rural power district. R.S.O. 1927, c. 57, s. 67.

Police village  
not to be  
deemed  
separate  
corporation.

**74.** Notwithstanding anything in this Act, a police village the trustees of which have not a subsisting contract with the Commission, shall not be considered a separate corporation from the township or townships out of which it was formed for the purposes of this Part. R.S.O. 1927, c. 57, s. 68.

Assent of  
electors not  
required to  
contract.

**75.** The council of the township or the council of each of the townships entering into a contract under section 71 or section 73 may pass a by-law for entering into such contract, and the corporation of the township may execute the contract, and it shall not be necessary to submit any such by-law to the vote of the electors or to comply with any of the other formalities required in the case of a by-law under Part II. R.S.O. 1927, c. 57, s. 69.



**76.**—(1) The Commission may enter into an agreement or agreements with His Majesty the King in right of the Province of Ontario providing for the supply and distribution of electrical power or energy by the Commission on behalf of the Province in unorganized townships, in Provincial Parks and in other territory without municipal organization and including under any such agreement from time to time any one or more of the areas that may be defined under subsection 2, and any such agreement, when executed by the President of the Executive Council of Ontario, representing His Majesty, and by the Commission, shall be valid and binding on His Majesty in right of the Province of Ontario and on the Commission respectively.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Commission may define areas in unorganized townships, in Provincial Parks and in other territory without municipal organization; the Commission may make any such area or areas a rural power district or part thereof, or part of an existing rural power district; the Commission may alter, enlarge or diminish any such area and may incorporate the whole or any part of any such area in any other rural power district, but before adding to any area land not previously included in any area, the approval of the Lieutenant-Governor in Council shall first be obtained; for the purposes of this section a rural power district shall include any such district established under this section or under section 71.

(3) Subject to agreement under subsection 1, the Commission may, on behalf of the Province,—

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the transmission to and the transformation and distribution and supply of electrical power or energy in any such area;
- (b) distribute and supply electrical power or energy in any such area;
- (c) contract with any person, firm or corporation for the supply of electrical power or energy in any such area.

(4) Save as in this section provided, all other provisions in relation to rural power districts in this or any other Act shall apply to each such area and the distribution and supply of electrical power or energy therein. 1935, c. 54, s. 8.

Application  
of Part II as  
to annual  
payments.

**77.** All the provisions of Part II as to the annual payments to be made by the corporations which have entered into contracts with the Commission shall apply to a contract entered into under this Part, and shall extend to the works constructed under the contract for transforming, distributing and supplying electrical power or energy in a rural power district. R.S.O. 1927, c. 57, s. 70.

Rates to be  
fixed by  
Commission.

**78.** The rates to be charged to customers receiving electrical power or energy from the Commission in a rural power district shall be fixed by the Commission, and shall be sufficient to provide the sum necessary to pay all the charges to be borne by the corporation under section 77. R.S.O. 1927, c. 57, s. 71.

Apportion-  
ment of  
cost on  
annual  
adjustment.

**79.** The Commission shall annually fix, adjust and apportion the cost of all the works mentioned in sections 71 and 73 to be borne by each of the municipal corporations entering into such contract. R.S.O. 1927, c. 57, s. 72.

#### STREET LIGHTING IN RURAL POWER DISTRICTS.

Lighting of  
highways.

**80.—(1)** A corporation which has entered into a contract with the Commission under this Part may, under procedure similar to that provided in Part III of this Act, enter into a contract with the Commission for the lighting by the Commission of highways in any area in a rural power district, and in pursuance of such contract, the Commission may, on behalf of the corporation, acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the lighting of the highways in such area, and the by-law of the corporation need not provide for the issue of debentures of the corporation to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy. R.S.O. 1927, c. 57, s. 73 (1); 1929, c. 20, s. 7 (1).

Where areas  
enlarged.

**(2)** Under similar procedure the corporation, with the approval of the Commission, may enlarge or alter the boundaries of any such area within any rural power district, and thereupon the contract mentioned in subsection 1 shall apply to such area as enlarged or altered.

Street  
lighting  
works.

**(3)** All the works mentioned in subsection 1 shall be deemed street lighting works and shall not form any part of the primary or secondary lines in the rural power district.

Part II to  
apply.

**(4)** All the provisions of Part II as to the annual payments to be made by the corporations which have entered into

contracts with the Commission shall apply to a contract entered into under this section and shall extend to all works constructed under such contract.

(5) All moneys required to meet the costs incurred by the corporation under this section shall be raised, levied and collected by an annual special rate upon the taxable property lying within the area described in the petition, or within such area as enlarged or altered. R.S.O. 1927, c. 57, s. 73 (2-5). <sup>Raising of moneys.</sup>

(6) The council of the corporation may from time to time by by-law provide that the whole or such part of the said costs as to the council may seem proper shall be paid by the corporation and be chargeable to the municipality as a whole and while the said by-law remains in force only the moneys required to meet the balance of the said costs shall be raised in the manner prescribed in subsection 5, and the assent of the electors shall not be required to any such by-law. 1928, c. 19, s. 5; 1929, c. 20, s. 7 (2). <sup>Street lighting in areas in rural power districts.</sup>

(7) Whenever the corporation shall under Part III have entered into a contract with the Commission for the supply of electrical power or energy for the purposes required by the petitioners in any area, the corporation, without a petition or any of the other preliminary proceedings provided in the said Part III, may by by-law enter into a contract with the Commission for lighting the highways in the said area under this Part and thereafter all the provisions of this Part shall apply to the said area and the lighting of the highways therein in lieu of the provisions of the said Part III. <sup>Lighting highways in local areas.</sup>

(8) Subsections 8, 9 and 10 of section 69 shall apply *mutatis mutandis* to any contract and to any area under this section. 1929, c. 20, s. 7 (3). <sup>Application of subss. 8 to 10 of s. 69.</sup>

## PART V.

### CONTROL AND REGULATION BY COMMISSION.

**81.** In this section and in sections 82, 83 and 85,—

<sup>Interpretation.</sup>

(a) "corporation" shall mean and include a municipal corporation, an incorporated company, or an individual or firm duly authorized by municipal by-law or agreement to construct and operate works for conducting, furnishing or distributing electricity for light, heat or power purposes in, under or upon any highway, and shall include any board or com- <sup>"Corporation."</sup>

mission incorporated or unincorporated acting on behalf of a municipal corporation or of the inhabitants of a municipality;

"Highway."

- (b) "highway" shall include a street, lane, road, square or other public communication;

"Works."

- (c) "works" shall include wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus. R.S.O. 1927, c. 57, s. 74.

Approval of  
distributing  
works.

**82.**—(1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of a highway, in, under, or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first mentioned corporation and after notice to the other and hearing any objections which it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve thereof, and all works which such first mentioned corporation has constructed or may thereafter construct, the location and mode of construction of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed, and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, except that provided for by section 83, any statute or law to the contrary notwithstanding.

Approval  
upon con-  
ditions.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to its works, servants or workmen in maintaining, repairing or operating them.

Insulation.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between the wires of different corporations or from any other cause, that insulators or other appliances should be affixed to the poles of either corporation, or that the wires of either of them should be attached to such insulators or other appliances, the Commission may authorize or direct such insulators or other appliances to be so affixed and such wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger, and anything done by either corporation pursuant to such authority or direction shall be deemed to be lawfully done.



(4) Any thing authorized or directed to be done under the provisions of subsection 3 shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation and under such supervision as the Commission may direct. R.S.O. 1927, c. 57, s. 75.

Works to be done at expense of initiating corporation.

**83.**—(1) If any damage or injury is done to the works of a corporation or any of them, or is occasioned in the maintenance or operation of them, by reason of the works of another corporation or any of them being constructed or operated in closer proximity to the works of such first mentioned corporation than, but for the provisions of section 82, would have been lawful, no action shall lie in respect thereof, but the corporation doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned or as to the amount of the compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* with respect to arbitration in the case of claims against municipal corporations shall apply *mutatis mutandis* to the procedure upon an arbitration under this section.

Claims for damages by one corporation against another.

Rev. Stat. c. 266.

(2) The corporation claiming damages shall, within one month after the expiration of any calendar year in which it claims that any such damage or injury has been so done or occasioned, give notice in writing to the other corporation of its claim and of the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that calendar year shall be forever barred. R.S.O. 1927, c. 57, s. 76.

Notice of claim.

**84.** The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is, by sections 81, 82 and 83, conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any court. R.S.O. 1927, c. 57, s. 77.

Exclusive jurisdiction of Commission.

**85.** No court shall have authority to grant or shall grant an injunction or other order restraining, either temporarily or otherwise, the construction, maintenance or operation of any works the location and mode of construction of which have been approved by the Commission if such works are being, or have been, constructed in the place and according to the mode which have been so approved. R.S.O. 1927, c. 57, s. 78.

Jurisdiction of courts ousted.

Complaints  
as to rates  
charged for  
light, heat  
or power.

**86.**—(1) Upon the complaint in writing of any municipal corporation, company or person that any municipal corporation, company or person receiving power from the Commission is charging for electric lighting or heating or for electrical power or energy a rate which is excessive or unfair, or that any municipal corporation is making use of the power conferred upon it by this Act for the purpose of granting a bonus by supplying power, light or heat below cost to manufacturers or others, the chairman of the Commission may appoint a time and place at which the Commission or some member thereof will hear and determine the matter of the complaint, and such notice of the appointment as the chairman may direct shall be given by the secretary of the Commission to such persons as the chairman may direct.

Hearing of  
complaints.

Regulation  
of rates.

(2) At the time and place appointed the Commission or a member thereof shall hear and determine the matter of the complaint, and may dismiss or allow the complaint, and may regulate and determine the rates to be charged, and may direct the amendment of any by-law, or agreement accordingly, or may make such order as may seem meet.

Powers of  
Commission  
on inquiry.

Rev. Stat.,  
c. 19.

(3) The Commission, or the member thereof hearing the complaint, shall have all the powers authorized to be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1927, c. 57, s. 79.

Regulations  
as to,—

**87.**—(1) The Commission may, with the approval of the Lieutenant-Governor in Council, make rules and regulations:

Construction  
of works, etc.

(a) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works and matters used or to be used in the generation, transformation, transmission, distribution, delivery or use of electrical power or energy in Ontario;

Use of  
works until  
authorized.

(b) prohibiting the use in Ontario of any such works or matters until they shall have been inspected and approved;

Advertising  
or sale of  
works in un-  
authorized  
manner.

(c) prohibiting the advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works or matters unless and until they shall have been inspected and approved, and prescribing the precautions to be taken in the sale or other disposal of such works or matters and the warnings and instructions to be given to purchasers and others

in advertisements and by circular or otherwise in order to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;

- (d) providing for the inspection, test and approval of Inspection, test and approval. all such works and matters before being used for any such purposes.

(2) The Commission may prepare and issue plans and specifications governing the design, construction and test of any of the works or matters mentioned in subsection 1, and may amend or alter such plans and specifications. Issuing of plans and specifications.

(3) The Commission may issue such orders relating to work to be done in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works or matters mentioned in subsection 1 as the Commission may deem necessary for the safety of the public, or of workmen, or for the protection of property. Orders relating to installations, alterations, etc.

(4) The Commission may appoint such inspectors and other officers as it may deem necessary for the purposes of this section. Appointment of inspectorial staff.

(5) The Commission may prescribe the fees to be paid for permits and for inspection, test and approval of all such works and matters mentioned in subsection 1 and of plans and specifications relating thereto, and may prescribe also the time and manner of payment of such fees. Fees for permits, inspection, test and approval.

(6) The Commission shall collect the fees prescribed by it under the authority of subsection 5, and shall provide for the remuneration, travelling and other expenses of the said inspectors and other qualified persons, together with all other expenses incurred in carrying out the provisions of this section, out of the said fees and out of any fines imposed for breach of any of the provisions of this section or of any rules, regulations, plans, specifications or orders made under the authority thereof, and out of the funds appropriated for carrying out the work of the Commission. Collection and disposition of fees and fines.

(7) Every inspector appointed under the authority of this section may, at any reasonable hour, enter upon, pass over or through any land, building or premises for the purpose of performing the duties assigned to him under the authority of this section. Powers of inspectors.

## Liability.

(8) Nothing in this Act or in any of the rules or regulations, plans, specifications or orders issued under the authority of this section shall render the Commission or any of its inspectors or other employees liable, or shall affect the liability of any municipal or other corporation or commission, company, firm or individual, for any injury, loss or other damages caused to any person or property by reason of defects in any of the works or matters mentioned in this section or by reason of any order of the Commission, notwithstanding any inspection or test or the issue of any certificate by the Commission or by any of its inspectors or other employees.

## Penalties—

(9) Every municipal or other corporation or commission, and every company, firm or individual,—

## For interference;

(a) hindering, molesting, disturbing or interfering with an inspector or other employee in the performance of his duty under this section shall incur a penalty of not less than \$10 or more than \$50 for each offence;

## For disobedience to regulations;

(b) refusing or neglecting to comply with the provisions of this section, or with any rule or regulation, plan or specification made under the authority thereof, shall incur a penalty of not less than \$10 or more than \$50 for each offence;

## For disobedience to order.

(c) refusing or neglecting to comply with any order issued by the Commission under the authority of subsection 3 shall incur a penalty of not less than \$100 or more than \$500 and a further penalty of not less than \$100 or more than \$500 for each and every separate day upon which such refusal or neglect is repeated or continued.

## Recovery of penalties.

Rev. Stat.,  
c. 136.

(10) The penalties imposed by or under the authority of this section shall be recoverable under *The Summary Convictions Act* and shall be paid over to the Commission.

## Section not to apply to mines.

Rev. Stat.,  
c. 47.

(11) This section shall not apply to any mine as defined under *The Mining Act*, save only as regards any dwelling house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. R.S.O. 1927, c. 57, s. 80.

## Proving regulations as to installations, etc.

(12) The regulations passed pursuant to this section may be approved by the production of a copy of such rules and regulations certified to by the secretary and bearing the seal of the Commission and the production of such certified copy



bearing the seal of the Commission shall be *prima facie* evidence of the due execution thereof by the said secretary. 1931, c. 13, s. 6.

**88.**—(1) A municipal corporation which has entered into a contract with the Commission for the supply of electrical power or energy shall not pass any by-law for the issue of debentures, or borrow money by other means, for any extension or improvement to an electrical light, heat or power system without having first obtained the assent of the Commission to the amount of such issue and borrowing and the purposes to which the proceeds of such issue are to be applied.

Debentures for extension or improvement not to be issued without approval of Commission.

(2) Every member of the council of the municipal corporation passing a by-law in contravention of subsection 1 shall be personally responsible for any loss or expense occasioned to the corporation by such action unless he shows that he voted against the passing of such by-law or did everything in his power to prevent the passing of the by-law.

Liability of members of council.

(3) Every by-law passed in contravention of subsection 1 shall be illegal and void, and the Commission may take the same proceedings for quashing such by-law, or restraining the corporation from issuing debentures thereunder, as might be taken by a ratepayer of the municipality.

By-law to be void.

(4) This section shall have effect, notwithstanding the provisions of any other general or special Act, heretofore enacted relating to any municipal corporation. R.S.O. 1927, c. 57, s. 81.

Section to have effect notwithstanding other enactments.

(5) The provisions of this section shall not apply to any by-law or by-laws authorizing the issue of debentures to defray the cost of, or to repay temporary loans incurred in connection with any works mentioned in subsection 1, when the estimated cost of such works and the borrowing of such estimated cost has been approved by the Commission and the principal amount of the debentures so authorized does not exceed the estimated cost aforesaid by more than five per cent.

Issue of debentures when Commission approves estimated cost.

(6) Equipment, plant and works constructed and erected on petition only as defined in clause *n* of subsection 1 of section 2 of *The Local Improvement Act* shall not be deemed extensions or improvements within the meaning of this section. 1931, c. 13, s. 7.

Restriction as to application of local improvement by-law.

Rev. Stat., c. 269.

**89.**—(1) The rates chargeable by any municipal corporation generating or receiving and distributing electrical power

Rates to be approved.

or energy shall at all times be subject to the approval and control of the Commission, and the rates charged by any company or individual receiving power from the Commission for the supply of electrical power or energy shall at all times be subject to such approval and control. R.S.O. 1927, c. 57, s. 82.

Powers as to  
fixing muni-  
cipal rates.

(2) Notwithstanding anything in this Act contained, the Commission may from time to time, when in its opinion it is in the interests of the municipal corporations under contract with the Commission so to do, make orders fixing the rates to be charged by the corporation or commission of any municipality having a population of less than 200,000 for electrical power or energy supplied by the Commission.

Where  
amount  
collected  
proves  
insufficient.

(3) In a municipality where the rates fixed by the Commission under subsection 2 above prove insufficient to provide for the costs of supplying electrical power or energy in such municipality, the Commission may charge the deficit to the stabilization fund account and may from time to time impose such terms as to repayment of the amount so charged together with interest thereon, or any part thereof, or may relieve the municipality from obligation to repay the same to such extent as to the Commission may seem just and equitable. 1930, c. 12, s. 10.

System of  
bookkeeping,  
etc.

**90.** The Commission may prescribe a system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of any municipal corporation or municipal commission, and may require from such municipal corporation or commission such returns and statements as the Commission may deem proper, and may extract from such books, returns and statements such information as in the opinion of the Commission may be useful for publication and may embody such information in the reports of the Commission. R.S.O. 1927, c. 57, s. 83.

Jurisdiction  
of Ontario  
Municipal  
Board.

Rev. Stat.,  
c. 60.

**91.** Section 80 of *The Ontario Municipal Board Act* shall not apply to municipal corporations or municipal commissions which are subject to the provisions of sections 89 and 90 of this Act in so far as the said sections relate to the development or distribution of electrical power or energy. R.S.O. 1927, c. 57, s. 84.

Insurance  
by muni-  
cipalities.

**92.—(1)** Every municipal corporation and municipal commission having a contract with the Commission for the supply of electrical power or energy shall maintain insurance against loss or damage to the person and property of em-

ployees and others occurring during the course of the operations of such corporation or commission.

(2) The insurance shall be for such amount and upon such terms and conditions as the Commission may direct and approve. Amount and terms.

(3) In lieu of such insurance, such corporation or commission may, with the approval of the Commission, establish a fund sufficient, in the opinion of the Commission, to protect such corporation or commission against any such loss or damage. Insurance fund.

(4) The Commission, at the request of any municipal corporation or commission, may enter into a contract with an insurance corporation for effecting such insurance on behalf of the municipal corporation or commission as may be required under the provisions of subsections 1 and 2, anything in *The Insurance Act*, or any other general or special Act to the contrary notwithstanding, and the cost of insurance so effected by the Commission in default of payment shall be chargeable to the municipal corporation or commission as part of the cost of power payable by the municipal corporation or commission under section 61. Group insurance for municipalities. Rev. Stat., c. 256. R.S.O. 1927, c. 57, s. 85.

**93.** Where it appears to the Commission, upon the examination of the accounts of any municipal corporation or municipal commission receiving power from the Commission under a contract between the municipal corporation and the Commission under this Act, that there are arrears due and owing for electrical power or energy supplied by the municipal corporation or municipal commission, or for rents, rates, costs and charges in connection with the service or supply of such power or energy or for the installation of any works for such service or supply, and that the municipal corporation or municipal commission has not taken the necessary proceedings for the collection of such arrears, the Commission may give, in writing, such directions as it may deem proper, signed by the chairman or secretary, for the collection of the arrears by any method by which they may be collected, and it shall be the duty of the municipal corporation or municipal commission forthwith after receiving such directions to take all proceedings necessary to carry them into effect. Collection of arrears on direction from Commission. R.S.O. 1927, c. 57, s. 86.

**94.** Where a municipal corporation or a municipal commission receiving electrical power or energy from the Commission under a contract made with the Commission in pursuance of the provisions of this Act,— Offences and penalties.

- (a) supplies electrical power or energy to any person upon terms and at rates other than those which have been approved of by the Commission;
- (b) grants to any person to whom electrical power or energy is supplied by the municipal corporation or commission, special terms by way of bonus or otherwise as to the rates to be paid for electrical power or energy, or as to the terms at which they are to be supplied;
- (c) neglects or refuses to carry out any direction of the Commission given under section 93;
- (d) by any means whatsoever, directly or indirectly reduces the cost of electrical power or energy to any individual, firm or corporation so that it is supplied to such individual, firm or corporation at a lower rate or upon better terms than those approved of by the Commission;
- (e) fails to keep accounts in the manner prescribed by the Commission or makes improper entries therein, or charges against any account items not properly chargeable thereto;

Disquali-  
fication of  
councillor  
or com-  
missioner.

such municipal corporation or municipal commission shall be guilty of an offence, and every member of the municipal council of such municipal corporation or every member of the municipal commission, as the case may be, shall be disqualified from sitting and voting in the council or from election thereto, or from acting as a member of the municipal commission or being appointed thereto, and from holding any other municipal office for a period of five years from the date of judgment or order declaring his disqualification, and proceedings may be taken against him in the same manner as in the case of a member of a municipal council who has become disqualified or has forfeited his seat under the provisions of *The Municipal Act*; provided that no member of the municipal council or of the municipal commission, as the case may be, shall be found to be so disqualified who proves to the satisfaction of the court or judge before whom the application for a declaration of his disqualification is made, that he was not a party to the offence and that he did everything in his power to prevent the commission of the offence. R.S.O. 1927, c. 57, s. 87.

Proviso.

Rev. Stat.,  
c. 266.

When  
default made  
Commission  
may take  
action.

**95.** When a municipal corporation or a municipal commission neglects or refuses to carry out any of the provisions of this Act, or any direction or regulation lawfully given or made hereunder, the Commission, if it deems it necessary or



desirable so to do, may appoint some person to do whatever is necessary to remedy such neglect or default and to comply with this Act or any such direction or regulation, and the reasonable and proper costs and charges incurred by the Commission in so doing shall be a debt due and payable by the municipal corporation or municipal commission to the Commission and shall be added to and shall be chargeable and collected with the charges set out in section 61. R.S.O. 1927, c. 57, s. 88.

**96.**—(1) Whenever it appears from the accounts of a municipal corporation or municipal commission that after providing for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the production, development or distribution of electrical power or energy, and, in the case of a municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution, after providing for the payments required by this Act, there is a surplus at the credit of the municipal corporation or municipal commission, such surplus shall be applied and disposed of, in such manner as the Commission may by general regulation or special order direct,—

When accounts of corporation show a surplus.

Application of surplus,—

- (a) in the reduction of any indebtedness incurred with respect to the construction and equipment of such works; or, In reduction of indebtedness;
- (b) in purchasing or otherwise acquiring a site, and erecting thereon buildings, for the occupation and use of the municipal commission as offices and for other business purposes, subject to the approval by the Commission of the site and cost of the plans of any such building, and subject to such approval, any such office building may be larger than is required for the immediate use of the municipal commission, and any part of such building not immediately required for the use of the municipal commission may be leased by it to the corporation or to any other municipal commission for the purposes of any public utility in the municipality; In erection of office buildings, etc.;  
  
In erection of larger building than required and leasing part for other utilities;
- (c) in the maintenance, repair or renewal thereof; or In maintaining, repairing and extending works;
- (d) in the extension of such works; or
- (e) in the formation of a fund to be used at a future time for any of such purposes;

To general purposes of municipal corporation.

(f) to the extent to which such surplus is derived from the supply of electrical power or energy for the public buildings of the corporation or the lighting of the streets of the municipality or for the operation of any street railway or electric railway or any public utility owned and operated by the corporation,—by payment over of such surplus, or of such portion thereof as the Commission may deem proper, to the treasurer of the municipality to be applied to the general purposes of the corporation.

Application of section notwithstanding special provisions.

(2) Subsection 1 shall apply to every municipal corporation or municipal commission which has entered into a contract with the Commission for the supply of electrical power or energy, and shall have effect notwithstanding any provision in any general or special Act.

Liability for mis-application of surplus.

(3) Any member of the council of a municipal corporation, and any member of a municipal commission, who is in any manner a party to any other disposition of such surplus than that directed by the Commission, shall forfeit his office, and proceedings may thereupon be taken against him as provided in *The Municipal Act* in the case of a member of a municipal council who has become disqualified, and the Commission may take the same proceedings in respect thereof as might be taken by a ratepayer of such municipality.

Rev. Stat., c. 266.

Disqualification.

(4) If it is found upon such proceedings that such member of the municipal council or commission has forfeited his office, he shall be disqualified from holding any municipal office for a period of two years thereafter. R.S.O. 1927, c. 57, s. 89.

Orders of Commission.

**97.** A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order or direction of the Commission or of a member thereof made under section 86, or of the Commission made under sections 87, 89, 90, 92, 93, 94 and 96, in addition to any other liability, shall forfeit to His Majesty for the use of Ontario the sum of \$100 for every day during which such neglect or refusal shall continue. R.S.O. 1927, c. 57, s. 90.

Penalty for disobeying.

Ordering wires under ground.

**98.**—(1) Where the Commission is of opinion that it is necessary or expedient for the protection of life or property, or for the convenience of the public, that the use of overhead lines upon any highway or part thereof in a city or town, including the wires of telegraph, telephone, electric light, heat or power companies, should be discontinued, the Commission may so direct, and, upon such terms and subject to such conditions as it may prescribe, may require that such

wires be placed and carried in underground conduits to be constructed and maintained in accordance with the directions and to the satisfaction of the Commission, and may abrogate any right to carry lines or poles in such city or town which may have been given by any Act or by any municipal by-law, license or agreement. Municipal wires.

(2) In this section, as in sections 99 to 103,—

Interpretation.

- (a) "lines" shall mean and include the wires, cables or other conductors used for the purpose of conveying or distributing electricity or electrical power or energy, for telegraph, telephone or electric light, heat or power purposes; "Lines."
- (b) "company" shall include a municipal corporation or municipal commission, a partnership and an individual, owning, leasing, using or controlling lines in a city or town. R.S.O. 1927, c. 57, s. 91. "Company."

**99.** Where the corporation of the city or town is willing to undertake the construction of a tunnel or conduits or other system for carrying lines underground in any highway or part thereof, the Commission, upon such terms and subject to such conditions as it may prescribe, may require all companies whose lines are carried overhead upon any such highway or public communication to make use of such tunnel or conduits or other system for the purpose of carrying their lines, and to pay to the corporation such compensation for the use thereof as may be agreed upon or as the Commission may determine, and such compensation may be either a lump sum or a sum to be paid annually or periodically as the Commission may determine and direct. R.S.O. 1927, c. 57, s. 92. Construction of tunnel by municipal corporation.

**100.** Where the corporation of a city or town desires to construct a tunnel, conduits or other system for the purpose mentioned in section 99, the corporation may do so and may exercise in respect thereof the powers of expropriation conferred upon the corporation by *The Municipal Act*. R.S.O. 1927, c. 57, s. 93. Powers of corporation of city or town. Rev. Stat., c. 266.

**101.** All works undertaken under the provisions of sections 99 and 100 shall be done in accordance with the directions and to the satisfaction of the Commission, and shall be maintained, kept in repair, altered, enlarged or improved to the satisfaction of the Commission and as it may direct. R.S.O. 1927, c. 57, s. 94. Work to be subject to direction of Commission.

**102.** If any order or direction of the Commission for discontinuing the use of overhead lines is not obeyed, the lines, poles and other structures in connection therewith upon the Overhead lines, disobedience of orders respecting.

highway shall be deemed to be unlawfully erected and maintained, and may be removed by or under the direction of the Commission and at the expense of the owner or user of them, and the company owning or using such lines shall incur a penalty of \$100 for each day during which the order of the Commission is disobeyed. R.S.O. 1927, c. 57, s. 95.

Under-  
ground  
lines.

Joint order  
by Commis-  
sion and  
Dominion  
Railway  
Board.

**103.**—(1) Where lines, the construction or operation of which is authorized by this Legislature, and lines the construction of which is authorized by the Parliament of Canada, run through or into the same city or town, and the corporation of such city or town is desirous of having such lines placed underground, the Commission and the Board of Railway Commissioners for Canada may, after the receipt of the applications hereinafter mentioned, by joint session or conference in conformity with the practice to be established by them, hear and determine the application, and may order, on such terms and conditions as they may prescribe, any company constructing or operating lines in the city or town to place such lines underground, and may abrogate any right to carry lines on poles in such city or town, which may have been given by any Act or municipal by-law, license or agreement.

Filing  
applications  
for order.

(2) Any such company, or any municipal corporation or other public body, or any person interested, may file with the secretary of the Commission, and with the secretary of the Board of Railway Commissioners for Canada, the application for an order under this section, together with evidence of the service of such application upon the companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipality within which the lines are situate.

Rules of  
procedure.

(3) The chairman of the Commission and the chairman of the Board of Railway Commissioners for Canada may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof.

Membership  
of joint  
board.

(4) The chairman of the Commission and the chairman of the Board of Railway Commissioners for Canada may from time to time assign or appoint from each body the members comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise.

Enforcement  
of orders.

(5) Any such order may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as any rule, order or decree of such court. R.S.O. 1927, c. 57, s. 96.



## PART VI.

## MUNICIPAL COMMISSIONS.

**104.**—(1) Except as provided in this section, notwithstanding anything in any general or special Act, subsection 3 of section 35 of *The Public Utilities Act* shall apply in every city and town which has entered into a contract with the Commission for the supply of electrical power or energy, and a commission shall be established under the provisions of Part III of *The Public Utilities Act* for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy. R.S.O. 1927, c. 57, s. 97 (1); 1931, c. 13, s. 8 (1).

Municipal commission to be established in every city or town under contract with Commission.

Rev. Stat., c. 286.

(2) Notwithstanding anything contained in *An Act respecting the City of Toronto*, passed in the first year of the reign of His Late Majesty, King George the Fifth, chaptered 119, in a city having a population of sixty thousand or over according to the last enumeration of the assessor, the corporation of which has entered into a contract with the Commission under this Act, the commission to be established for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy shall consist of three members, one of whom shall be the mayor of the city, one of whom shall be appointed by the municipal council of the city to hold office for two years and until his successor is appointed, and the third of whom shall be appointed by and shall hold office during the pleasure of the Commission. 1935, c. 54, s. 9 (1).

Municipal commission—how composed in city of 60,000 or over.

**105.**—(1) No member or officer of any commission appointed or elected for the control and management of the construction, operation and maintenance of works undertaken by a municipal corporation for the distribution and supply of electrical power or energy received from the Commission shall, directly or indirectly,—

Members of municipal commission not to be interested in certain companies, etc.

- (a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security or property of any company, firm or individual engaged in the generation, distribution or supply of electrical power or energy in the municipality or holding or controlling works for that purpose. R.S.O. 1927, c. 57, s. 98 (1), cl. (a); 1929, c. 20, s. 8 (1).

(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as part of the equipment required in the generation, distribution, supplying or use of electrical power or energy; R.S.O. 1927, c. 57, s. 98 (1), cl. (b); 1929, c. 20, s. 8 (2).

(c) act as director, officer or employee of any company referred to in clause *a*, or having any interest referred to in clause *b*, or act as trustee, agent or representative of any firm or individual in respect of any business or interest referred to in clause *a* or clause *b*. 1931, c. 13, s. 9.

Municipal  
commission-  
ers to part  
with any  
such  
property  
devolving  
on them.

(2) If any such stock, share, bond, debenture or other security, property, device, appliance, machine, patented process or article, or any part thereof or any interest therein, shall come to or vest in any member or officer of a municipal commission by will or succession for his own benefit, he shall, within three calendar months after the same shall so come to or vest in him, absolutely sell and dispose thereof, and of his interest therein.

Not to be  
directors  
or officers of  
companies  
dealing in  
electrical  
supplies.

(3) No member or officer of any such municipal commission shall act as director or officer of any company which has power to invest any portion of its funds in the securities of a company generating, distributing or supplying electrical power or energy or any appliance therefor in the same municipality.

Disquali-  
fication of  
member of  
municipal  
commission.

(4) Every member or officer of a municipal commission who contravenes any of the provisions of this section shall forfeit his office, and shall be disqualified and incapable of being elected or appointed to any such municipal commission or to any other municipal office for a period of two years, and the like proceedings may be taken by the Commission or by a ratepayer against any such member or officer to remove him from his office or declare his disqualification, as may be taken by a ratepayer for the removal or disqualification of a member of a municipal council who has become disqualified for sitting and voting therein, but the Commission shall not be required to furnish security for costs. R.S.O. 1927, c. 57, s. 98 (2-4).

Certain  
persons  
ineligible  
in cities  
of 100,000  
or over.

(5) Where the corporation of a city having a population of 100,000 or over has entered into a contract with the Commission for a supply of electrical power or energy and a commission has been appointed under any general or special Act for the control and management of works for the distribution of such electrical power or energy, no person shall be qualified to be appointed to or to act as a member of such commission who

is a member of any other commission controlling or managing any other public utility or any railway or street railway in the said city. R.S.O. 1927, c. 57, s. 98 (5), *part*.

(6) Notwithstanding anything herein contained, this section shall not apply to an officer or employee of any such municipal commission who patents a device, appliance, machine, process or article of his own invention with the knowledge and permission of such municipal commission and the Commission. 1929, c. 20, s. 8(3).

Application  
of section.

**106.** Where, by this Act or by any contract heretofore or hereafter entered into between the Commission and a municipal corporation, duties are imposed upon or covenants or undertakings are entered into by the municipal corporation, they shall extend to and be deemed to include and shall be binding upon any commission having the management or control of any public utility or other municipal undertaking for and on behalf of the municipal corporation, and any board of education, board of high school trustees or board of public school trustees appointed or elected for the municipality represented by the municipal corporation. R.S.O. 1927, c. 57, s. 99.

Agreement  
to extend  
to municipal  
commissions,  
boards, etc.

SCHEDULE A

(Referred to in section 15)

1927.....	\$1,338,567
1928.....	1,392,110
1929.....	1,447,795
1930.....	1,505,706
1931.....	1,565,935
1932.....	1,628,572
1933.....	1,693,716
1934.....	1,761,464
1935.....	1,831,922
1936.....	1,905,199
1937.....	1,981,406
1938.....	2,060,663
1939.....	2,143,090
1940.....	2,228,813
1941.....	2,317,966
1942.....	2,410,684
1943.....	2,507,111
1944.....	2,607,396
1945.....	2,711,691

1946.....	\$2,820,159
1947.....	2,932,965
1948.....	3,050,284
1949.....	3,172,296
1950.....	3,299,187
1951.....	3,431,156
1952.....	3,568,401
1953.....	3,711,137
1954.....	3,859,582
1955.....	4,013,966
1956.....	4,174,525
1957.....	4,341,505
1958.....	4,515,166
1959.....	4,695,772
1960.....	4,883,603
1961.....	5,078,948
1962.....	5,282,106
1963.....	5,493,390
1964.....	5,713,125
1965.....	5,941,650
1966.....	6,179,317

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\$ 127,198,046

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R.S.O. 1927, c. 57, Sched.

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## CHAPTER 63.

## The Water Powers Regulation Act.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Inspector" shall\* mean a commission, public body, "Inspector."  
or person designated by the Lieutenant-Governor  
in Council to act as inspector under this Act, and  
shall include the officers, agents and servants of  
the inspector employed and acting under the author-  
ity and direction of such inspector. R.S.O. 1927,  
c. 58, s. 1, cl. (c).
- (b) "Owner of a water power" shall mean and include "Owner of  
every municipal corporation, company, firm or in- a water  
dividual being or claiming to be the owner, lessee, power."  
licensee, occupant, tenant, or assignee of a right to  
use any of the waters of Ontario for the purpose  
of generating hydraulic, electrical, or pneumatic  
power or energy under any grant, lease or license  
from the Crown, or any person, or under contract  
with, or franchise from any public body representing  
the Crown or the Province of Ontario or under the  
general law or any special Act of this Legislature  
or otherwise; R.S.O. 1927, c. 58, s. 1, cl. (b).
- (c) "Power" shall mean and include hydraulic, elec- "Power."  
trical, or pneumatic power or energy; R.S.O. 1927,  
c. 58, s. 1, cl. (a).
- (d) "Regulations" shall mean regulations made by the Regulations.  
Lieutenant-Governor in Council under the authority  
of this Act; R.S.O. 1927, c. 58, s. 1, cl. (e).
- (e) "Works" shall mean and include every dam, wing "Works."  
dam, forebay, gate, rack, canal, conduit, pipe,  
aqueduct, penstock, tunnel, and every other work  
which has been or may be constructed or used  
for or in connection with the control or diversion  
of water and the conveying of it to a power house  
or other place at which power may be generated,  
and all buildings, structures, plant, machinery,  
appliances and other works and things now or here-  
after used for or appurtenant to the production and  
generation of power. R.S.O. 1927, c. 58, s. 1, cl. (d).

Duty of owner as to use of water.

2. It shall be the duty of every owner of a water power to ensure as far as possible the economical and efficient use of the water used by him. R.S.O. 1927, c. 58, s. 2.

Appointment of inspector.

3. The Lieutenant-Governor in Council may appoint an inspector or inspectors who may, in addition to the powers hereinafter mentioned when required by the Lieutenant-Governor in Council so to do,—

Inspection.

(a) at all reasonable times enter upon any works, and examine and inspect the same;

Measurements and tests.

(b) take such measurements and tests as may be necessary from time to time in order to determine or to fix, as the case may be, in respect of the owner of any water power;

(i) the quantity of water used, permitted to be used or available for use;

(ii) operating head and head losses;

(iii) electrical and hydraulic efficiency of main or auxiliary machinery or of any other portion of the works, or of the works as a whole;

(iv) the amount of power developed, permitted to be developed, or available for development;

(v) fix in terms of cubic feet per second the amount of water necessary to use in order to develop or generate any amount of horsepower or to exercise any water rights for any purpose;

Production of records, etc.

(c) require the production of books, records, charts, readings, maps, plans, load curves and all other documents and records pertaining to the matters to be investigated, inquired into or determined under the provisions of this Act;

Ordering alterations in works, etc.

(d) if it appears to him that the water permitted to be used is not being utilized with a proper degree of efficiency or economy, or that the works or any part of the works are so constructed, or are of such a type, or have so depreciated that the water cannot be used with a proper degree of efficiency or economy, after giving the interested parties a reasonable opportunity to be heard, order the water to be used, or the machinery or the works

or any part of them, to be replaced or removed, altered, or reconstructed as the case may be, in such manner or to such an extent as may be necessary to secure the proper degree of efficient and economical use of the water; and

- (e) if any order so made is not carried out within a reasonable time, enter upon the works and, at the expense of the owner of a water power, shut off or reduce the supply of water or close the works or any part thereof in such a manner as to prevent further use until such order has been obeyed. R.S.O. 1927, c. 58, s. 3.

Shutting off water or closing works.

4.—(1) Where an order made by the inspector calls for alterations, repairs or improvements in the works there may be an appeal from the order of the inspector to the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may make such order in the premises as may be deemed meet, which order shall be final.

Appeal to Lieutenant-Governor in Council.

(2) Upon such appeal, if the Lieutenant-Governor in Council is of the opinion that the additions, alterations or improvements required to be made in the works will be of material public advantage, by reason of the more efficient or economical use of the water, and that the owner of the water power will not presently receive a corresponding commercial advantage from such alterations or improvements, the Lieutenant-Governor in Council may direct a reference to determine what compensation, if any, should be made to the owner of the water power by reason of his being compelled to make such additions, alterations or improvements; and upon such reference all the circumstances shall be taken into account and if the referee is of opinion that the owner is entitled to compensation the referee may fix the amount thereof at such sum as he may deem just and reasonable, and upon the owner carrying out the order of the inspector or of the Lieutenant-Governor in Council, the amount so awarded shall be payable to the owner in the same manner as a judgment recovered against the Crown in any court in Ontario. R.S.O. 1927, c. 58, s. 4.

Reference to determine compensation of owner.

5. It shall be the duty of the owner of a water power, subject to the right of appeal hereinbefore given, to obey at all times the orders of the inspector and to afford every facility for carrying out this Act and the regulations, and every owner of a water power who neglects or refuses to carry out any such order, or who obstructs or hinders or delays the inspector or refuses to furnish him with such information and records as he may require, shall incur a penalty of not less than \$300

Duty of owner as to inspection.

Penalty.

nor more than \$2,000, and each and every day on which such offence is committed or continued shall be deemed to create a separate offence. R.S.O. 1927, c. 58, s. 5.

Inspector's application to judge for order when obstructed, etc.

6.—(1) Where an inspector, appointed under section 3 has been directed or required by the Lieutenant-Governor in Council to exercise any of the powers, or to perform any of the duties set out in clauses *a* to *e* of the said section, and the owner of the water power, or any officer, agent or servant of the owner of a water power, hinders, delays or obstructs the inspector in the performance of any such duty, or refuses to permit the inspector to enter upon the premises of the owner of the water power, or to carry out or exercise any of such powers and duties, the inspector may apply to the judge of the county or district court, or to a judge of the Supreme Court, in a summary manner, for an order directing the owner of the water power, his officers, agents or servants, to afford such facilities for inspection as may be necessary for carrying out this Act and the regulations, and require him to obey the orders of the inspector on that behalf, and to admit the inspector to the premises of the owner of the water power, and to cease from such obstruction, hindrance or delay, and to furnish the inspector with such information and records as he may require in order to comply with the direction or requirements of the Lieutenant-Governor in Council.

Order of judge.

(2) Upon such application the judge may make such order as he deems requisite in order to secure compliance with this Act and the regulations and the performance by the inspector of his duties, and such order shall be final and shall not be subject to appeal.

Application Rev. Stat., c. 123.

(3) *The Judges' Orders Enforcement Act* shall apply to every application and order made under this section. R.S.O. 1927, c. 58, s. 6.

Fixing quantity of water to be taken in exercise of rights.

7. Where any lease, license, Order-in-Council or other instrument or any general or special statutory provision confers or purports to confer the right to develop or generate power measured expressly or impliedly in horsepower, or where any such instrument or provision confers or purports to confer a right of diversion or use of water defined wholly or in part by the character, location or dimensions of works, the inspector may fix in terms of cubic feet per second the amount of water which it is necessary to use in order to develop or generate such power or to exercise such right, having regard to the location of the works and to all the circumstances of the case, and to the degree of efficiency which the owner of



the water power should be required to maintain in the premises. R.S.O. 1927, c. 58, s. 7.

8. Every owner of a water power, before proceeding with the construction of any works or any alteration or extension of existing works or with the purchase or installation of new works, shall submit to an inspector plans and specifications showing the details of the proposed construction, alteration or extension or of the new works proposed to be purchased or installed, and he shall not proceed therewith or let contracts therefor until such plans and specifications have been approved by the inspector. R.S.O. 1927, c. 58, s. 8.

9.—(1) Where the rights of the owner of a water power to use water for the purpose of generating power do not appear to be expressly or impliedly limited by any stipulation as to the quantity of water to be used or as to the amount of horsepower which may be generated or otherwise, and the Lieutenant-Governor in Council deems it desirable in the public interest that such rights should be specifically limited and defined, he may direct the inspector to inquire and report as to,—

- (a) the amount of power which the owner of a water power is authorized to generate under any contract, lease, license or other instrument, or under any general or special Act of this Legislature or otherwise; and
- (b) as to the quantity of water which it is necessary, having due regard to efficiency and economy in development, to use for the purpose of generating such amount of power,

and upon such report the Lieutenant-Governor in Council may fix and determine, in horsepower, the amount of power which the owner shall generate and in terms of cubic feet per second the amount of water which it is necessary to use in order to develop or generate such power.

(2) If the owner is dissatisfied with the construction so placed upon his rights, or with such limitation and definition, the Lieutenant-Governor in Council may, upon the application of the owner, direct a reference to ascertain what rights, if any, have been restricted or impaired by such limitation and definition, and if it is found that such rights exist, and that they are so restricted or impaired, to ascertain the compensation that should be paid to such owner for such restriction or impairment.

Payment  
of com-  
pensation.

(3) The amount of the compensation awarded to the owner upon such reference shall be paid to him in the same manner as the amount of a judgment recovered against the Crown. R.S.O. 1927, c. 58, s. 9.

Limitation  
of rights  
of owner  
by Order-  
in-Council.

**10.**—(1) Where the Lieutenant-Governor in Council deems that the public interest requires that any rights heretofore conferred upon the owner of a water power should be restricted or limited in any particular, he may by Order-in-Council limit, define or restrict such rights to the construction, operation and use of such works only as may be deemed expedient in the public interest.

Reference  
to determine  
compensa-  
tion.

(2) If the owner deems himself aggrieved by any such limitation, definition or restriction, the Lieutenant-Governor in Council may direct a reference to determine what compensation, if any, should be paid to the owner, and the referee shall have the like powers and shall proceed in the same manner, and the amount awarded shall be payable in the same way as in the case of a reference under section 9. R.S.O. 1927, c. 58, s. 10.

Matters to  
be considered  
on reference.

**11.**—(1) Upon any reference under this Act, the referee shall take into consideration,—

- (a) the conditions under which any rights to generate or develop power were originally obtained;
- (b) the consideration paid or agreed to therefor;
- (c) the capital invested in any works by the owner of a water power;
- (d) the circumstances which render any limitation or restriction of such rights necessary and desirable in the public interest.

Powers of  
commis-  
sioner.

(2) The referee, upon any inquiry under this Act directed by the Lieutenant-Governor in Council, shall have all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1927, c. 58, s. 11.

Rev. Stat.,  
c. 19.

Regulations  
by  
Lieutenant-  
Governor  
in Council.

**12.** The Lieutenant-Governor in Council may make regulations respecting,—

- (a) the procedure to be followed by the inspector and for conferring upon him the powers of a commissioner under *The Public Inquiries Act*;

Rev. Stat.,  
c. 19.

- (b) the form and term of notices to be given by the inspector and the enforcement of his orders;
- (c) the appointment of officers, servants and agents by the inspector and their duties and powers;
- (d) the procedure to be followed upon any appeal from an order of the inspector;
- (e) any return to be made by the owner of a water power and the particulars to be stated in such returns;
- (f) the better carrying out of the provisions of this Act in general. R.S.O. 1927, c. 58, s. 12.

**13.**—(1) Where the inspector reports that the owner of a water power,—

Report of inspector that owner is exceeding his rights.

- (a) is diverting or using more water than such owner is entitled to divert or use; or
- (b) is developing or generating a greater amount of power in horsepower, than such owner is entitled to develop or generate; or
- (c) has installed works and equipment capable of developing or generating a greater amount of power in horsepower than such owner is entitled to develop or generate;

the Lieutenant-Governor in Council may appoint three commissioners, who shall be judges of the Supreme Court, to hold an inquiry under *The Public Inquiries Act*, and report to the Lieutenant-Governor in Council as to,—

Appointment of commissioners.  
Rev. Stat., c. 19.

- (i) the quantity of water in cubic feet per second which such owner is entitled to divert or use;
- (ii) the amount of power in horsepower which such owner is entitled to develop or generate;
- (iii) the extent, if any, by which the capacity of the works installed or equipped by the owner, exceeds the amount of power in horsepower which the owner is entitled to develop or generate;
- (iv) the price and terms and conditions upon which having regard to all the circumstances and to the

rights of the owner as ascertained by the commissioners, the power to the extent of such excess should be delivered to The Hydro-Electric Power Commission of Ontario as hereinafter provided; and

- (v) such other matters connected with or arising out of the subject matter of the reference as they may deem expedient.

Where commissioners find that owner is exceeding his rights.

Order requiring delivery of surplus power to H.-E. P. Commission.

(2) If the commissioners find that the owner is diverting or using more water than he is entitled to divert or use, or is developing or generating a greater amount of power in horsepower than he is entitled to develop or generate, or that he has installed and equipped works exceeding in capacity the amount of power which he is entitled to develop or generate, the Lieutenant-Governor in Council may order the owner to deliver to The Hydro-Electric Power Commission of Ontario, upon the date named in the order such amount of electrical power or energy as shall equal such excess as found by the report of the commissioners, or to operate the works of the owner to their full capacity and to deliver such excess power to The Hydro-Electric Power Commission for Ontario.

Penalty for disobedience to order.

(3) If the owner refuses or neglects to deliver such power after notice in writing so to do, he shall incur a penalty of \$1,000 per diem for every day during which such neglect or default continues, to be recoverable by action in the Supreme Court at the suit of the Attorney-General for Ontario.

Other liabilities of owner not affected.

(4) Nothing in this section contained shall affect or diminish any duty or obligation as to payment of any penalty or rental to which the owner might otherwise be liable for exceeding the amount of power which he is entitled to develop or generate, and all such penalties may be collected and all such rentals shall be due and payable and the like proceedings may be taken by the Crown or by any commission or other public body from which the rights or franchises of the owner are derived, as if this Act had not been passed. R.S.O. 1927, c. 58, s. 13.

Owner exceeding right to use water or develop power at Niagara Falls.

**14.** Where the owner is developing electrical power or energy by the diversion of the waters of the Niagara River under any contract, agreement, license, lease or other instrument entered into by the owner or his predecessors in title with or granted to the owner or his predecessors in title by the Commissioners of the Queen Victoria Niagara Falls Park, and the owner diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of



electrical energy than he is entitled to develop or generate under the contract, agreement, license, lease or other instrument, the inspector may, with the authority of the Lieutenant-Governor in Council, give to the said owner notice in writing to cease diverting or using more water than he is entitled to divert or use or generating or developing a greater amount of electrical power or energy than he is entitled to develop or generate, and if the owner, after the expiration of one month from the giving of such notice, diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical power or energy than he is entitled to develop or generate, then every franchise or right of occupancy or possession or right to develop or use any of the waters of the Niagara River or to operate or construct any works which may be enjoyed by the owner therefor, and notwithstanding anything contained in any such contract, agreement, license, lease or other instrument or in any by-law or in any general or special Act of this Legislature shall cease and be at an end. R.S.O. 1927, c. 58, s. 14.

Forfeiture  
of rights  
in Park.

**15.** The Lieutenant-Governor in Council may, at any time, rescind any order made by him under subsection 2 of section 13, and thereupon all right of the owner to develop power or use water or develop or generate power in excess of the owner's rights as found by the said commissioners shall cease, but any such rescission shall not relieve the owner from any penalties incurred by him under subsection 3 of section 13 prior to the date of such rescission. R.S.O. 1927, c. 58, s. 15.

Rescission  
of order for  
delivery of  
excess de-  
velopment.

## CHAPTER 64.

## The Rural Hydro-Electric Distribution Act.

Grants in aid of distribution works in rural power districts.

Rev. Stat., c. 62.

1. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant-Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any municipality or commission distributing power in a rural power district under the provisions of *The Power Commission Act*, a sum not exceeding fifty per centum of the capital cost of constructing and erecting in the rural power district, primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power in such rural power district. R.S.O. 1927, c. 59, s. 1.

Grants in aid of works in townships or urban municipality adjoining township in rural power district.

Rev. Stat., c. 286.

2. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant-Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to the corporation of a township or of an urban municipality supplying or distributing electrical power or energy in an adjoining township or within a rural power district under the provisions of *The Public Utilities Act* or any other general or special Act, a sum not exceeding fifty per centum of the capital cost of constructing or erecting in such adjoining township or rural power district primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power or energy in such adjoining township or in such rural power district. R.S.O. 1927, c. 59, s. 2.

Grants chargeable to capital account.

3. All sums paid to municipal corporations or commissions under the authority of section 1 or section 2 shall be chargeable in the books of the Treasurer of Ontario as expenditure upon capital account. R.S.O. 1927, c. 59, s. 3.

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## CHAPTER 65.

## The Rural Power District Loans Act.

## 1. In this Act,—

Interpretation.

(a) "Commission" shall mean The Hydro-Electric Power Commission of Ontario;

"Commission."

(b) "Regulations" shall mean regulations made under the authority of this Act. 1930, c. 14, s. 2.

"Regulations."

2.—(1) The Lieutenant-Governor in Council may set apart out of the Consolidated Revenue Fund a sum not exceeding \$2,000,000 for the purpose of providing advances towards the installation of electrical services in rural power districts.

Fund set apart.

(2) The Lieutenant-Governor in Council may from time to time direct that such payments be made to the Commission out of the moneys so set apart as the Commission may report to be necessary in order to enable advances to be made under this Act.

Payments out of fund to Commission.

(3) Subject to the regulations the installation in respect of which aid may be granted under this Act shall include,—

What installation may include.

(a) wiring from the transmission or distribution lines of the Commission into and throughout dwellings, barns, outhouses and any other works which may from time to time be specified in regulations made under the authority of this Act;

(b) such transformers, motors and other appliances as may be necessary or expedient for any industrial, agricultural or domestic purposes or which may be specified in the regulations. 1930, c. 14, s. 3.

3.—(1) A person assessed as owner and being the actual owner of lands and premises in a rural power district desiring to procure an advance under this Act may make application, in the form prescribed by the regulations, to the Commission.

Application for advance.

Proofs to  
accompany  
application.

(2) The application shall not be acted upon unless it is accompanied by the declaration of the applicant stating that he is the actual owner of the lands and premises mentioned in the application and that the same is free from encumbrance, or if the lands and premises, or any part thereof, are mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and where it has been assigned, the name of the assignee of the mortgage or encumbrance, with his address.

Notice to  
encum-  
brancers.

(3) Where it appears that there is a mortgage or encumbrance upon the lands or premises or any part thereof the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter sent to him by the secretary of the Commission to his last-known address. 1930, c. 14, s. 4.

Limit of  
amount of  
advance.

4. An advance under this Act shall not exceed in amount the sum of \$1,000 in the case of any one owner, and every such advance shall be repayable with interest within twenty years at the furthest. 1930, c. 14, s. 5.

Control as  
to installa-  
tion and  
specifica-  
tions.

5. Every installation in respect of which an advance is made under this Act shall be made in such manner and according to such specifications as the Commission may prescribe and the work of installation shall be subject to the approval of the Commission and no advance shall be made under this Act except upon the recommendation of the Commission. 1930, c. 14, s. 6.

Repayment  
of advance.

6.—(1) Every advance made under this Act shall be a debt due from the owner of the lands and premises upon which the installation is made to the Commission and shall be repayable to the Commission at the time and in such manner as may be prescribed by the regulations, and the amounts so received by the Commission shall be transmitted to the Treasurer of Ontario.

Collection  
as taxes in  
case of  
default.

(2) Where default is made in the repayment of any advance under this Act, or in any instalment thereof, or in the payment of interest thereon, the Commission may give notice in writing of such default to the clerk of the municipality in which the lands and premises are situate, and the amount in default shall thereupon be inserted in the collectors' roll as a tax in the same manner as in the case of municipal taxes, and when collected shall be paid over by the treasurer of the municipality to the Commission. 1930, c. 14, s. 7.



7.—(1) The Commission shall cause a notice of the advance, <sup>Registration of notice of lien.</sup> in the form prescribed by the regulations, to be registered in the proper registry or land titles office and such registration shall be notice to subsequent purchasers or mortgagees or other encumbrancers that the advance made under this Act is a lien or charge upon the lands and premises owned by the applicant.

(2) Where notice has been registered under subsection 1 <sup>Registration of certificate of repayment.</sup> and the advance has been subsequently repaid, a certificate of repayment in the form prescribed by the regulations, may be delivered to the owner of the lands and premises and may be registered by him, and such registration shall have the effect of discharging the lien or charge.

(3) The fee for registering a notice or certificate of repay- <sup>Fee.</sup> ment under this section shall be fifty cents. 1930, c. 14, s. 8.

8.—(1) The property in any works installed in respect of <sup>Property in works to be in Commission until advance repaid.</sup> which an advance is made under this Act shall, while such advance remains unpaid, be in the Commission, and in addition to any other remedy, in case of default in repayment of the advance, or of any instalment thereof, or in the payment of interest thereon, the Commission may by its officers, servants and agents enter upon the premises and take possession of and remove transformers, motors or other appliances or fixtures forming part of such installation.

(2) A chattel mortgage, lien note or other instrument <sup>Priority over lien note, etc.</sup> registered or filed, or any judgment or other legal process shall not have priority over the lien created by an advance from the Commission under this Act. 1930, c. 14, s. 9.

9. Subject to the provisions of this Act the Lieutenant- <sup>Regulations.</sup> Governor in Council may make regulations prescribing the terms and conditions upon which advances may be made under this Act and generally for the better carrying out of the provisions of this Act. 1930, c. 14, s. 10.

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## CHAPTER 66.

## The Rural Power District Service Charge Act.

Fixing  
maximum  
service  
charge.

1. Notwithstanding anything contained in any statute or municipal by-law or contract the Lieutenant-Governor in Council, upon the recommendation of The Hydro-Electric Power Commission of Ontario, may from time to time fix a maximum service charge for any class of service rendered by the said Commission in a rural power district. 1930, c. 15, s. 2.

Where deficit  
arises under  
maximum  
service  
charge.

2.—(1) Where such maximum service charge in the case of any rural power district is not sufficient to meet the necessary cost of the service as specified by the Commission, the deficit shall be chargeable to and payable out of the Consolidated Revenue Fund.

Recouping  
Province out  
of subse-  
quent  
surplus.

(2) Payments made out of the Consolidated Revenue Fund under subsection 1 on account of any rural power district shall be charged to that rural power district in a special account to be known as the "Rural Power Service Suspense Account" in the books of the Treasurer of Ontario and any surplus thereafter arising from any maximum service charge in that rural power district shall be paid over to the Treasurer of Ontario and placed to the credit of the rural power district in such suspense account until the deficit is extinguished.

Maximum  
service  
charge to  
remain in  
force until  
deficit paid.

(3) Where a deficit arises in any rural power district owing to the application of the maximum service charge under this section, the maximum service charge as fixed from time to time by the Lieutenant-Governor in Council shall remain in force and be charged in that rural power district until the deficit is extinguished. 1930, c. 15, s. 3.

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## CHAPTER 67.

## The Power Commission Insurance Act.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Commission" shall mean Hydro-Electric Power Commission of Ontario; "Com-  
mission."
- (b) "Insurance corporation" shall mean a corporation licensed to transact the business of insurance and enter into contracts for insurance in the Province of Ontario under *The Insurance Act*; "Insurance  
corpora-  
tion."  
Rev. Stat.,  
c. 256.
- (c) "Municipal authority" shall mean and include a municipal corporation or commission distributing electrical power or energy in a municipality. "Municipal  
authority."  
R.S.O.  
1927, c. 60, s. 1.

2.—(1) The Commission may enter into an agreement with any municipal authority or group of municipal authorities authorizing the Commission to contract with an insurance corporation for insurance for the employees of such municipal authority or municipal authorities by way of service annuities, income annuities or death or disability benefits or such other benefits as may by the Commission be deemed expedient and for payment by the municipal authority or authorities of the cost of such insurance and the cost of or incidental to the administration and operation of the contract, and any other expenses incurred or for which the Commission may be liable in connection therewith. Agreement  
between  
Commission  
and muni-  
cipal  
authority.

(2) The Commission on behalf of any such municipal authority or group may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with an insurance corporation for providing insurance for the employees of such municipal authority or group by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Commission be deemed expedient, and for the enforcement of any such contract and for the administration of its operation by the Commission or by any other person or corporation on behalf of such municipal authority or group. Agreement  
with insur-  
ance  
corporation. R.S.O. 1927, c. 60, s. 2.

Cost of insurance,—  
how borne.

**3.**—(1) The cost of insurance and the cost of and incidental to the administration and operation of the contract and any other expenses incurred or for which the Commission may be liable in connection therewith shall be payable by each of the municipal authorities on whose behalf the contract is undertaken as part of the cost of operation of the works of the municipal authority and shall be apportioned and distributed by the Commission among the municipal authorities in any such group in such manner as the Commission may deem equitable.

Regulations.

(2) The Commission, with the approval of the Lieutenant-Governor in Council, may make regulations prescribing the terms and conditions for the required payments under subsection 1, and the time and manner in which such payments shall be made and the returns and accounts to be furnished by any municipal authority and the contributions to be made by the employees of any municipal authority party to the agreement. R.S.O. 1927, c. 60, s. 3.

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## CHAPTER 68.

## The Hydro-Electric Negligence Act.

1. Notwithstanding anything contained in any other Act, it shall not be necessary to secure the consent of the Attorney-General before commencing any action against The Hydro-Electric Power Commission of Ontario for damages arising through the negligence of the agents, contractors, officers, employees or servants of the said Commission in the construction, equipment or operation of any electric railway constructed or acquired, equipped and operated by the said Commission under the authority of any Act of this Legislature. Consent of Attorney-General not necessary in certain actions.

R.S.O. 1927, c. 61, s. 1.

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## 7. LABOUR.

## CHAPTER 69.

## The Department of Labour Act.

Department  
of labour.

**1.** The Department of Labour shall be presided over by the Minister of Labour. R.S.O. 1927, c. 62, s. 1.

Deputy  
Minister  
and other  
officers.

**2.** The Lieutenant-Governor in Council shall appoint a Deputy Minister of Labour and such other officers, clerks and servants in the Department as may be deemed necessary or expedient. R.S.O. 1927, c. 62, s. 2.

Duties  
of Deputy  
Minister.

**3.** The Deputy Minister shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1927, c. 62, s. 3.

Adminis-  
tration of  
certain  
statutes  
assigned to  
Department.

**4.** The Department shall administer,—

- (a) *The Apprenticeship Act;*
- (b) *The Building Trades Protection Act;*
- (c) *The Employment Agencies Act;*
- (d) *The Factory, Shop and Office Building Act;*
- (e) *The Industrial Standards Act;*
- (f) *The One Day's Rest in Seven Act;*
- (g) *The Operating Engineers Act;*
- (h) *The Steam Boiler Act;*
- (i) *Regulations respecting the protection of persons working in compressed air, tunnels, or open caissons;*

and such other Acts or regulations as may from time to time be designated by the Lieutenant-Governor in Council. R.S.O. 1927, c. 62, s. 4; 1932, c. 15, s. 2; 1937, c. 17, s. 2.

Duties of  
Department.

**5.** It shall be the duty of the Department to,—

- (a) collect such statistical and other information respecting trades and industries in Ontario as may be deemed necessary or expedient from time to time; Statistics and information.
- (b) ascertain the localities in which mechanics, artisans or workmen in any particular trade or industry are required and wherever practicable assist in supplying the demand for such work or labour; Distribution of employment.
- (c) ascertain and report upon sanitary and other conditions relating to the health, comfort and well-being of the industrial classes; R.S.O. 1927, c. 62, s. 5, cls. (a-c). Sanitary and other conditions.
- (d) establish and maintain in the various centres of population throughout Ontario employment offices and similar agencies for obtaining suitable employment for persons, both male and female, in any of the trades, occupations or professions, and for procuring workers for employment in any of the trades, occupations, or professions, and subject to *The Employment Agencies Act*, to regulate all voluntary, private or municipal employment bureaux; R.S.O. 1927, c. 62, s. 5, cl. (d); 1932, c. 15, s. 3 (1). Employment bureaux. Rev. Stat., c. 248.
- (e) ascertain and report upon the rates of wages paid to employees in the various trades and industries carried on in Ontario; Wages.
- (f) inquire and report as to the establishment of new industries in Ontario, in any case where by reason of the production of raw material for such industry in Ontario, or the immigration of persons skilled in the particular industry or other circumstances it appears that such industry can profitably be carried on; New industries in Ontario.
- (g) inquire into, consider and report upon the operation of laws in force in other parts of the Empire and in foreign countries, having for their objects the protection, technical training and welfare of the industrial classes, and make such recommendations and suggestions thereon as may be deemed advisable; Reporting upon laws in other parts of Empire and in foreign countries.
- (h) consider and report upon any petition for, or suggestion of a change in the law of Ontario relating to labour and wages or any matter affecting the industrial classes, presented or made by any trades and labour council or other organization representing Changes in the law.

those classes or by any other person; R.S.O. 1927, c. 62, s. 5, cls. (e-h).

Annual  
report.

- (i) prepare and transmit to the Lieutenant-Governor in Council annually a report containing the reports of the officers employed in the administration of the various Acts and regulations assigned to the Department, and upon the work of the Department during the preceding year, together with such statistical and other information as may have been collected in the Department. R.S.O. 1927, c. 62, s. 5, cl. (i); 1932, c. 15, s. 3 (2).

Establish-  
ment of  
Industry and  
Labour  
Board.

**6.**—(1) There is hereby constituted a board to be named “The Industry and Labour Board,” herein called the board, which shall consist of five members to be appointed by the Lieutenant-Governor in Council, one of whom shall be designated as chairman, and three of whom shall be officers of the Department of Labour.

By-laws  
of board.

(2) The board shall be a body corporate and with the approval of the Lieutenant-Governor in Council shall have power to pass by-laws and regulations governing its proceedings.

Per diem  
allowance.

(3) The Lieutenant-Governor in Council may grant to any member of the board not being an officer of the Department a per diem allowance while transacting business of the board, which shall be payable out of the Consolidated Revenue Fund.

Powers of  
board.

(4) The board shall have power to administer, enforce and carry out the provisions of any Act in which the board is designated for the purpose in such Act or which may be assigned to it by the Lieutenant-Governor in Council. 1937, c. 17, s. 3.

Powers  
of Deputy  
Minister as  
to obtaining  
information.

**7.**—(1) The Deputy Minister may require from employers, workmen and other persons such information concerning rates of wages, hours of work, regularity of employment and other matters as he may deem necessary for the proper carrying out of this Act or of any of the Acts or regulations administered by the Department. R.S.O. 1927, c. 62, s. 7 (1); 1932, c. 15, s. 4 (1).

Public  
inquiries  
by board.

(2) For the purpose of procuring such information or for the purpose of assisting the Department in carrying out any of the provisions of section 5, the Minister may authorize the board or any member or members of the board to conduct a public inquiry, and the board or member or members



thereof acting under such authority shall, for the purpose of conducting such public inquiry, have all the powers, rights and privileges that may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*. 1937, Rev. Stat., c. 19. c. 17, s. 4 (1).

(3) Any officer or inspector of the Department acting under the written authority of the Deputy Minister, shall have access at all reasonable hours to any office, factory, shop, place of business or other premises for the purpose of carrying out the provisions of this Act or of any Act or regulations administered by the Department. R.S.O. 1927, c. 62, s. 7 (3); 1932, c. 15, s. 4 (1); 1937, c. 17, s. 4 (2). Right of access.

(4) Every person who refuses to furnish any returns or information which may be lawfully required, or who hinders or obstructs any officer or inspector in the performance of his duties under this Act or any of the Acts or regulations administered by the Department shall be guilty of an offence and may be proceeded against under *The Summary Convictions Act* and upon conviction shall incur a penalty of \$20. R.S.O. 1927, c. 62, s. 7 (4); 1932, c. 15, s. 4 (2); 1937, c. 17, s. 4 (3). Penalty for refusing information or interfering with officers. Rev. Stat., c. 136.

(5) Every person who falsifies his records or returns or supplies incomplete or untrue information shall be guilty of an offence and may be proceeded against under *The Summary Convictions Act* and upon conviction shall incur a penalty of not less than \$50 and not more than \$300. 1932, c. 15, s. 4 (3). Penalty for falsifying records. Rev. Stat., c. 136.

8.—(1) The Minister, with the approval of the Lieutenant-Governor in Council may make such regulations as may be deemed necessary for the safety and protection of persons engaged,— Regulations for protection of workmen.

(a) on work in the construction of which men are employed in compressed air;

(b) in the construction of tunnels and open caisson work.

(2) All such regulations heretofore made are declared to be and to have been legal, valid and binding. Confirmation of former regulations.

(3) The regulations made under this section shall be deemed to be in addition to and not in contradiction of or in substitution for regulations made under any other Act dealing with the safety of workmen and employees. 1931, c. 15, s. 2. Existing regulations not interfered with.

9. Whenever any inspector appointed under this Act or under any of the Acts or regulations administered by the Stopping work when conditions unsafe.

Department of Labour is of the opinion that any work or installation to which any such Act or regulations apply or any portion of such work or installation is being carried on or has been installed in such manner as to be dangerous to life or property, he may, by written order to the employer, person, firm or corporation responsible for such work or installation, or to the contractor for any part thereof, order the immediate cessation of the work or operation of the plant or equipment or any portion thereof, which he considers unsafe. 1932, c. 15, s. 5, *part*.

Penalty for  
non-  
compliance.

**10.** Any person, firm or corporation employing persons on any work or installation to which any of the Acts or regulations administered by the Department of Labour apply, who refuses or neglects to comply with any order, direction or recommendation lawfully given in connection with the safe conduct of such work or installation shall be guilty of an offence and may be proceeded against under *The Summary Convictions Act* and upon conviction shall incur a penalty of not less than \$50 and not more than \$300. 1932, c. 15, s. 5, *part*.

Rev. Stat.,  
c. 136.

## 8. AIDING DRAINAGE WORKS.

## CHAPTER 70.

## The Provincial Aid to Drainage Act.

1. In this Act "drainage work" shall mean and include any drainage work to which *The Municipal Drainage Act* applies. R.S.O. 1927, c. 63, s. 1.

Interpretation—  
"Drainage work."

Rev. Stat.,  
c. 278.

2.—(1) Subject to the provisions of subsection 2, this Act shall apply to the construction, improvement and reconstruction of—

Application  
of Act.

(a) the trunk channel or channels of any drainage work where the cost of such trunk channel or channels, exclusive of lateral drains or branches, but including a *pro rata* share of all incidental expenses, exceeds the sum of \$10,000;

(b) any work for the purpose of rendering more effective a drainage work by embanking or pumping or other mechanical means where the cost of such work including the cost of all pumping machinery installed exceeds the sum of \$10,000. R.S.O. 1927, c. 63, s. 2; 1929, c. 24, s. 2, *part*.

(2) This Act shall not apply to the construction of covered drains such as storm sewers, sanitary sewers or sewer outlets.

Act not to  
apply to  
municipal  
sewers, etc.

(3) For the purposes of this Act any contribution in cash towards the cost of the work received by the municipality initiating the work shall be deducted from such cost. 1929, c. 24, s. 2, *part*.

Contributions  
received by  
initiating  
municipality  
to be  
excluded.

3. The council of a municipality initiating a drainage work, being or including work to which this Act applies, may, before passing any by-law for undertaking the work, apply to the Lieutenant-Governor in Council by petition verified by a statutory declaration of the engineer, and setting forth the reasons why the whole cost of the work should not be assessed

Application  
for aid.

Rev. Stat.,  
c. 278.

upon the land which would be liable to assessment therefor under *The Municipal Drainage Act*, and that aid should therefore be granted, accompanied by a verified copy of the report, a statement of the cash value and the engineer's assessment of the land, and a field plan and profile of the proposed work. R.S.O. 1927, c. 63, s. 3; 1933, c. 48, s. 2.

Examination  
and grant  
of aid on  
report.

4.—(1) When it appears that the drainage work is or includes a work to which this Act applies, the Lieutenant-Governor in Council may cause an examination thereof to be made by an engineer of the Department of Public Works, who shall report fully thereon and upon all matters alleged in the petition, and upon his report and on the practical completion of the work, the Lieutenant-Governor in Council may assume and pay out of the Consolidated Revenue Fund to the treasurer of the initiating municipality, twenty per centum of the cost of the work as described and limited in section 2.

Distribution  
of grant.

(2) The grant shall be distributed by the initiating municipality to other interested municipalities on a *pro rata* basis, according to the engineer's assessment, and in each case the amount of the grant shall be applied to reduce the annual assessment on each property during the life of the by-law. R.S.O. 1927, c. 63, s. 4.

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## CHAPTER 71.

## The Municipal Drainage Aid Act.

1.—(1) The council of a township which has passed a by-law for undertaking a work under the provisions of *The Municipal Drainage Act*, may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, apply to the Treasurer of Ontario for the purchase by the Province of the debentures authorized thereby.

Right to apply to the Treasurer of Ontario for purchase of debentures.

Rev. Stat., c. 278.

(2) The application shall be in the prescribed form and shall be sealed with the seal of the municipality, and signed by the head thereof, and shall be accompanied by two affidavits, in the prescribed form, one to be made by him and the other by the clerk of the municipality. R.S.O. 1927, c. 64, s. 1.

Form of application.

2. The Treasurer of Ontario shall investigate and report to the Lieutenant-Governor in Council as to the propriety of all proposed investments, in the order in which the applications therefor are received. R.S.O. 1927, c. 64, s. 2.

Report by Treasurer as to investment.

3. The Treasurer of Ontario shall not certify to the propriety of an investment where the aggregate amount of the rates necessary for the payment of the annual expenses of the municipality for the last completed financial year and of the interest and principal of the debts contracted by it exceeds three cents in the dollar on the whole value of the rateable property within its jurisdiction, or where the amount of the debentures to be issued exceeds \$60,000, and the amount invested in the purchase of debentures of any municipality shall not at any time exceed \$40,000. R.S.O. 1927, c. 64, s. 3.

When the Treasurer not to certify to propriety of investment.

4.—(1) The Lieutenant-Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any time \$500,000, in the purchase of debentures, in respect of which the Treasurer of Ontario certifies to the propriety of the investment. R.S.O. 1927, c. 64, s. 4 (1).

Purchase of debentures.

(2) No investment shall be made by the Treasurer under this Act where the price paid for the debentures would be

Investment to show at least four per cent.

such as to show a less return to the Province than the equivalent of an investment at four per centum per annum. R.S.O. 1927, c. 64, s. 4 (2); 1937, c. 49, s. 2.

Advances on account.

5. The Lieutenant-Governor in Council may authorize the advance of the whole par value of the debentures, or the retention of such percentage thereof as he may see fit until the Minister of Public Works and Highways has reported that the works have been inspected and are completed, and the expenses in connection with the investigation and inspection shall be deducted from the amount, if any, retained. R.S.O. 1927, c. 64, s. 5.

When debentures unquestionable.

6. After such investment, the debentures shall not be questioned in any court and shall be valid and binding according to the terms thereof. R.S.O. 1927, c. 64, s. 6.

Repayment.

7.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario within one month after the same became payable, together with interest at the rate of seven per centum per annum during the time of any default in payment.

Consequence of default in payment.

(2) In case of a continuance of such default the council in the next ensuing year or as the case may require shall assess and levy on the whole rateable property within its jurisdiction in the same manner in which taxes are levied for the general purposes of the municipality a sum, over and above the other valid debts of the corporation falling due within the year, sufficient to enable the treasurer of the municipality to pay the amount in arrear together with interest thereon at the rate of seven per centum per annum from the time the same became payable until payment, whether or not the same has been previously paid by or recovered from the persons or land chargeable therewith.

How arrears ranked as a charge.

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-laws they may have been raised.

Duty of municipal treasurer after default.

(4) No treasurer or other officer shall after such default pay out of the funds of the municipality any sum, except for the ordinary current disbursements and salaries of clerks and other employees of the municipality or debts due to the province of Ontario, until the amount so in arrear and the interest has been paid to the Treasurer of Ontario.

(5) If such treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any criminal liability which he may thereby incur, he shall be personally liable for every sum paid as for money had and received by him for the Crown.

Liability of municipal officers.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be violated shall also be personally and individually liable for the full amount so in arrear, and the interest, to be recovered as for money had and received by him for the Crown.

Liability of member of council.

(7) No assessment, levy or payment made under this section shall exonerate the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1927, c. 64, s. 7.

Liability of lands to municipality not affected.

8. The Lieutenant-Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act. R.S.O. 1927, c. 64, s. 8.

Regulations and forms.

9.—(1) The Treasurer of Ontario may from the 1st day of April, 1937, reduce to four per centum per annum the rate of interest payable upon all debentures of any municipality purchased by the Province prior to the 25th day of March, 1937, under the provisions of this Act which, on the 25th day of March, 1937, have not matured and are unpaid, until such debentures finally mature and are paid, at or before the time of such maturity, and payment of interest on or before the respective due dates thereof at the said rate may be accepted by the Treasurer of Ontario in full discharge and satisfaction of the interest payable upon such debentures notwithstanding the tenor thereof or of any interest coupons attached thereto.

Interest reduced on outstanding drainage debentures held by Province.

(2) Nothing in subsection 1 shall affect the rate of interest payable upon the said debentures or interest thereon during the time of any default in payment as provided for in section 7. 1937, c. 49, s. 3.

Interest after default not affected.

(3) No municipality shall be entitled to the reduction in the rate of interest provided for in subsection 1 until it satisfies the Treasurer of Ontario that a reduction to four per centum per annum in the rate of interest included in the annual rates levied for the special assessments payable after the 1st day of April, 1937, by persons liable therefor for discharge of debentures issued by the municipality and purchased by the Province has been made.

Condition on which municipality is entitled to reduction in rate of interest.

Power of  
council to  
accept  
reduced  
rate of  
interest on  
debentures  
affected  
by this Act.

(4) Notwithstanding the provisions of this Act or the by-law of a municipality under which the debentures purchased by the Province were issued or of the debentures themselves or of any special assessments imposed by such by-law for payment and discharge of such debentures and interest thereon, the council of such municipality is authorized from the 1st day of April, 1937, to reduce to four per centum per annum the rate of interest payable upon such debentures and to levy rates for the special assessments at and including only such reduced rate of interest for the remaining years during which rates for such special assessments have still to be levied and to accept payment of such rates in full discharge and satisfaction of the liability of the persons and lands subject thereto, and for such purpose the council may cause the special assessments and any rolls or registers thereof to be amended accordingly. 1937, c. 49, s. 4.

Regulations.

(5) The Treasurer of Ontario may make regulations for the purposes of subsections 1 to 4 to ensure that the intent thereof may be effectuated. 1937, c. 49, s. 5.



## CHAPTER 72.

## The Tile Drainage Act.

1.—(1) The council of a town, village or township may pass by-laws (Form 1) for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2,000, and not exceeding \$200,000 in the whole, such amount as they may deem expedient, and for issuing therefor debentures of the municipality (Form 2), payable within ten or twenty years from the date of such debentures which shall bear date in the year in which the money is borrowed from the municipality as is hereinafter provided, and bearing interest at a rate of not less than four per centum per annum, and it shall not be necessary to obtain the assent of the electors to any such by-law before the passing thereof. 1929, c. 25, s. 2 (1); 1937, c. 78, s. 2 (1).

Borrowing  
powers of  
councils.

(2) The amount of the indebtedness of the municipality in respect of money so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any time exceed \$200,000; nor shall a by-law be passed except at a meeting of the council especially called for the purpose of considering it, and held not less than four weeks after a notice (Form 3) of the day appointed for the meeting has been published in such newspaper as the council by resolution may direct. 1929, c. 25, s. 2 (2).

Proviso.

(3) Notwithstanding the provisions of subsections 1 and 2, the council of a town, village or township, the assessment of the whole rateable property in which according to the last revised assessment roll is not less than \$3,000,000, may for the purposes hereinafter mentioned borrow in sums of not exceeding \$300,000 in the whole, provided the indebtedness in respect of money so borrowed and remaining unpaid shall not at any time exceed \$300,000. 1931, c. 16, s. 2.

Borrowing  
powers  
where assess-  
ment less  
than  
\$3,000,000.

2.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution designate, and in at least one number of such newspaper each week for three successive weeks.

Publication  
of by-law.

Notice to be appended.

(2) To each copy of the by-law shall be appended a notice (Form 4).

When by-law to be valid.

(3) If notice of an application to quash the by-law or any part thereof is not given within twenty days after the last publication under this section, or, if such notice is given, and the application is not made within one month after such last publication, the by-law shall not be questioned in any court and shall be valid and binding according to the terms thereof. 1929, c. 25, s. 3.

Application of proceeds.

**3.** The debentures may be issued and sold by the municipality from time to time, for the purpose only of lending the proceeds thereof for tile, stone or timber drainage, as hereinafter provided, as money is required for the purpose. 1929, c. 25, s. 4.

Form of debentures, and coupons.

**4.** The debentures shall be made payable to the Treasurer of Ontario and shall have coupons attached thereto which shall be for equal annual amounts of principal and interest. 1929, c. 25, s. 5.

Application for disposal of debentures.

**5.**—(1) The council, after the expiration of one month from the last publication under section 2, may deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality (Forms 5 and 6), and may at any time thereafter apply for the purchase by the Province of the debentures authorized thereby.

Form of application.

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. 1929, c. 25, s. 6.

Report by Provincial Treasurer.

**6.** The Treasurer of Ontario shall investigate and report to the Lieutenant-Governor in Council as to the propriety of all proposed investments in the order in which the applications therefor are received. 1929, c. 25, s. 7.

Application by owner for loan.

**7.**—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of tile, stone or timber drainage may make application (Form 7), to the council.

Statutory declaration of applicant.

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application, and that the same is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered,

stating the name and address of the mortgagee or encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address.

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter, sent to him by the clerk to his last known address. 1929, c. 25, s. 8.

Notice to  
encum-  
brancer.

8. If the application is granted the council may issue debentures for such sum within the amount authorized by this Act and by the by-law of the municipality, as they may deem proper, but not exceeding the sum applied for, nor exceeding seventy-five per centum of the estimated cost of such drainage. 1929, c. 25, s. 9.

Issuing  
debentures.

9. The Lieutenant-Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund not exceeding in the whole at any time \$3,000,000 in the purchase of debentures issued under such by-laws in respect of which the Treasurer of Ontario shall have certified to the propriety of the investment. 1929, c. 25, s. 10.

Purchase of  
debentures  
out of  
Consolidated  
Revenue  
Fund.

10. Notwithstanding any of the provisions of this Act, no application shall be granted by a council until the Treasurer of Ontario has approved the purchase of such debentures as the council may require to issue to undertake a proposed drainage work. 1934, c. 59, s. 2.

Approval by  
Treasurer  
necessary  
before  
application  
granted.

11. After such investment, the debentures shall not be questioned in any court and shall be valid and binding according to the terms thereof. 1929, c. 25, s. 11.

Debentures  
declared  
unquestion-  
able.

12.—(1) The council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage and for a term of ten or twenty years, in sums of \$100 or multiples thereof, subject to the provisions of section 13, as the council may deem proper, to persons entitled to borrow.

Application  
of proceeds  
of loans.

(2) No part of the money so borrowed shall be lent to any member of the council, but a person having so borrowed from a municipality shall not by reason thereof be disqualified from being afterwards elected a member of the council. 1929, c. 25, s. 12.

Who may  
borrow.

13. The amount loaned to any one person shall not exceed \$2,000 for each one hundred acres or fraction thereof, nor

Limit of  
loan to  
individual.

seventy-five per centum of the total cost of the work. 1929, c. 25, s. 13.

Order in which loans are to be granted.

**14.** The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications shall have been approved. 1929, c. 25, s. 14.

Appointment of Inspector.

**15.** A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. 1929, c. 25, s. 15.

Inspector's report.

**16.**—(1) On the completion of any drainage works under his charge the inspector shall report to the council the number of rods of drain constructed on each lot or parcel of land, the cost per rod, and such other particulars as may be required by the council.

Record.

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council until the report of the due completion of the work has been so made. 1929, c. 25, s. 16.

Collection of special rate.

**17.** The council shall impose by by-law (Form 8), and shall levy and collect for the term of ten or twenty years as the council may elect, over and above all other rates upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge the principal and interest of the money lent in ten or twenty years as the case shall be, and the rate shall be collected in the same manner as other special rates imposed under *The Municipal Act*. 1929, c. 25, s. 17.

Rev. Stat., c. 266.

Discharge of indebtedness by owner.

**18.** The owner of land, in respect of which money has been borrowed, may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate payable by the municipality to the Treasurer of Ontario on the debentures of the municipality which he holds in respect of the said indebtedness, less any sum already paid on account of principal and interest, and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario, who shall apply it towards payment of the debentures of the municipality. 1929, c. 25, s. 18; 1937, c. 78, s. 2 (2).



**19.** A council which has borrowed money shall, on or before the 15th day of January in each year, make a return to the Provincial Secretary, showing, for the year which ended on the 31st day of December next preceding, the amount expended in drainage, the number of rods of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. 1929, c. 25, s. 19.

Returns to  
Provincial  
Secretary by  
municipal  
council.

**20.—(1)** The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario within one month after the same became payable, together with interest at the rate of seven per centum per annum during the time of any default in payment.

Repayment  
by municip-  
ality to  
Province.

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the amount in arrear, together with interest thereon at the rate of seven per centum per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

Consequence  
of default in  
payment.

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised.

How arrears  
ranked as  
a charge.

(4) No treasurer or other officer shall, after such default, pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario.

Duty of  
municipal  
treasurer  
after  
default.

(5) If such municipal treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any criminal liability which he may thereby incur, he shall be personally liable for every sum paid as for money had and received by him for the Crown.

Liability of  
municipal  
officers.

(6) Any member of the council who wilfully or negli-

Penalty for  
violation.

gently permits any of the foregoing provisions to be violated shall also be personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.

Liability of  
lands to  
municipality  
not  
affected.

(7) No assessment, levy or payment made under this section shall exonerate the persons or lands chargeable under the by-law from liability to the municipality. 1929, c. 25, s. 20.

Regulations  
and forms.

**21.** The Lieutenant-Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act, and, subject thereto, the forms in the schedule hereto shall be used. 1929, c. 25, s. 21.

Interest  
reduced on  
outstanding  
tile drainage  
debentures  
held by  
Province.

**22.**—(1) The Treasurer of Ontario may from and after the 1st day of April, 1937, reduce to four per centum per annum the rate of interest payable upon all debentures of any municipality purchased by the Province prior to the 25th day of March, 1937 under the provisions of this Act which on the 25th day of March, 1937, have not matured and are unpaid until such debentures finally mature and are paid at or before maturity, and payment of interest on or before the respective due dates thereof at the said rate may be accepted by the Treasurer of Ontario in full discharge and satisfaction of the interest payable upon such debentures notwithstanding the tenor thereof or of any interest coupons attached thereto.

Interest  
after  
default not  
affected.

(2) Nothing in subsection 1 shall affect the rate of interest payable upon the said debentures or interest thereon during the time of any default in payment as provided for in section 20. 1937, c. 78, s. 3.

Condition  
on which  
municipality  
is entitled  
to reduction  
in rate of  
interest.

(3) No municipality shall be entitled to the reduction in the rate of interest provided for in subsection 1 until it satisfies the Treasurer of Ontario that a reduction to four per centum per annum in the rate of interest included in the annual rates levied for the special assessments payable after the 1st day of April, 1937, by the persons liable therefor for the discharge of debentures issued by the municipality and purchased by the Province has been made.

Power of  
council to  
accept  
reduced rate  
of interest  
on  
debentures  
affected by  
this Act.

(4) Notwithstanding the provisions of this Act, or of the by-law of a municipality under which the debentures purchased by the Province were issued or of the debentures themselves or of any special assessments imposed by such by-law for payment and discharge of such debentures and interest thereon, the council of such municipality is authorized from the 1st day of April, 1937, to reduce to four per centum per annum the rate of interest payable upon such debentures

and to levy rates for the special assessments at and including only such reduced rate of interest for the remaining years during which rates for such special assessments have still to be levied and to accept payment of such rates in full discharge, and satisfaction of the liability of the persons and lands subject thereto, and for such purpose the council may cause the special assessments and any rolls or registers thereof to be amended accordingly. 1937, c. 78, s. 4.

(5) The Treasurer of Ontario may make regulations for <sup>Regulations.</sup> the purposes of subsections 1 to 4 to ensure that the intent thereof may be effectuated. 1937, c. 78, s. 5.

## SCHEDULE.

### FORM 1.

#### (Section 1)

#### FORM OF BY-LAW.

##### *By-law No.*

*A by-law to raise \$ \_\_\_\_\_ to aid in the construction of tile,  
stone or timber drains.*

The Council of the Municipality of \_\_\_\_\_, pursuant to the provisions of *The Tile Drainage Act*, enacts as follows:

1. That the Reeve (*or* Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the said Municipality such sum not exceeding in the whole \$ \_\_\_\_\_, as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the said corporation in such sums as the Council may deem proper for the amount so borrowed, with coupons attached as provided in section 4 of the said Act.

2. That when the Council shall be of opinion that the application of any person to borrow money for the purpose of constructing a tile, stone or timber drain should be granted in whole or in part, the Council may, by resolution, direct the Reeve (*or* Mayor) to issue debentures as aforesaid, and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the said money shall be borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

A. B.,  
Reeve (*or* Mayor).  
C. D.,  
Clerk.

(Corporate  
seal.)

1929, c. 25, Form 1.

## FORM 2.

(Section 1.)

## FORM OF TILE DRAINAGE DEBENTURE.

\$..... No.  
 Drainage Debenture of the ..... of .....  
 The Corporation of the ..... of ..... , in the County of  
 ..... hereby promises to pay to the Treasurer  
 of Ontario or order at the Bank of ..... in the  
 of ..... , the sum of \$..... of lawful money of Canada, and interest  
 thereon at four per centum in twenty equal annual instalments of \$.....  
 each, the first of such instalments to be paid on the  
 day of ..... , 19..... , pursuant to by-law No.  
 intituled "A by-law to raise \$..... , to aid in the construc-  
 tion of tile, (stone or timber) drains."  
 (Corporate Seal.)  
 A. B., G. H.,  
 Reeve (or Mayor). Treasurer.

## FORM OF COUPON.

<p>Coupon for twentieth Annual          Instalment of ..... Drainage          Debenture No. 1, issued under          By-law No. .... of the          of ..... \$.... payable at the          Bank of ..... in the ..... of          ..... on ..... day of          19.....          A. B., G. H.,          Reeve (or Mayor). Treasurer.</p>
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1929, c. 25, Form 2.

*Note.*—The coupon should be for \$7.36 for every \$100 loaned for a 20  
 year period or \$12.33 for every \$100 loaned for a 10 year period.

## FORM 3.

(Section 1.)

## NOTICE OF MEETING TO CONSIDER BY-LAW.

Take notice that a by-law for raising \$..... under the  
 provisions of *The Tile Drainage Act*, will be taken into consideration  
 by the Municipal Council of the .....  
 of ..... at the ..... of ..... , on the ..... day  
 of ..... , 19..... , at the hour of ..... o'clock in the  
 noon.

C. D.,  
 Clerk.

1929, c. 25, Form 3.



## FORM 4.

(Section 2.)

## NOTICE.

*Municipality of the* of

Take notice that the above is a true copy of a By-law passed by the Municipal Council of the of on the day of 19 , and all persons are required to take notice that any one who desires to apply to have such by-law or any part thereof quashed must serve notice of his application upon the Head or Clerk of this municipality within twenty days after the date of the last publication of this notice, and must make his application to the Supreme Court of Ontario within one month after the said date. This notice was first published on the day of 19 , and the last publication will be on the day of 19 .

A. B.,  
Clerk.

1929, c. 25, Form 4.

## FORM 5.

(Section 5.)

## AFFIDAVIT OF HEAD OF MUNICIPALITY.

County of TO WIT: } I, of in the County of of the  
Reeve (or Mayor) of the of make  
oath and say:

I have not been served with any notice of intention to make application to quash a by-law passed on the day of 19 , by the Municipal Council of the said of No. intituled (*insert the title of by-law*), nor have I been served with any notice of intention to make application to quash any part of the by-law, nor with any notice to that or the like effect.

Sworn, etc.,

A. B.

1929, c. 25, Form 5.

## FORM 6.

(Section 5.)

## AFFIDAVIT OF CLERK

County of TO WIT: } I, of in the County of of the said of make  
oath and say:

1. On the day of 19 , the Municipal Council of the said of at a meeting specially called for that purpose passed a by-law for borrow-

ing money to be lent for the construction of tile, stone or timber drains, being No. \_\_\_\_\_ and intituled (*insert title of by-law*), a copy of which certified by me is now shown to me marked "A."

2. Notice of the meeting was given by publication on (*insert here the dates of publication*) in the (*insert names of newspapers*), copies of which newspapers are shown to me and marked "B," "C," and "D."

3. A notice, a copy of which is now shown to me marked "E," was published on (*insert here the dates of publication*), in the (*insert name of newspaper*), being the newspaper in which the Council did by resolution direct the publication thereof, copies of which newspaper containing the said notice are now shown to me and marked "F," "G," and "H".

4. I have not been served with any notice of intention to make application to quash the said by-law, or any part thereof, nor with any notice to that or the like effect.

Sworn, etc.

C. D.

1929, c. 25, Form 6.

## FORM 7.

(Section 7.)

### APPLICATION FOR LOAN.

To the Municipal Council of

I, *E. F.*, owner of (*if part state what part*) lot No. \_\_\_\_\_ in  
 \_\_\_\_\_ Concession of the Township of \_\_\_\_\_ (or as  
*the case may be*) apply for a loan of \$ \_\_\_\_\_ to assist in  
 the construction of \_\_\_\_\_ rods of  
 drain, on the said land. The proposed depth of drain is  
 inches, the proposed size of tile is \_\_\_\_\_ inches (1).

*E. F.*

(1) *If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain."*

1929, c. 25, Form 7.

## FORM 8.

(Section 17.)

### BY-LAW IMPOSING A RATE.

*By-law imposing a Special Drainage rate upon Lot \_\_\_\_\_ in the*  
*Concession.*

Whereas *E. F.*, the owner of (*if part state what part*) Lot \_\_\_\_\_ in  
 the \_\_\_\_\_ Concession of the Township of \_\_\_\_\_ (or as the case may

be), applied to the Municipal Council of the said Township under *The Tile Drainage Act*, for a loan for the purpose of draining the said land; And whereas the said Council has, upon his said application, lent the said *E. F.*, the sum of \$1,000 (*or as the case may be*), to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the said Municipal Council, that an annual rate of \$73.60 per annum (*or as the case may require, namely \$7.36 for every \$100 lent*), is hereby imposed upon the said land for a period of twenty years, such rate to be levied and collected at the same time and manner as ordinary taxes are levied and collected.

Passed this                      day of                      19                      .  
(Corporate  
seal.)

*A. B.*,  
Reeve (*or* Mayor).

*C. D.*,  
Clerk.

1929, c. 25, Form 8.

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## 9. AGRICULTURE.

## CHAPTER 73.

## The Department of Agriculture Act.

Interpreta-  
tion.

1. In this Act,—

“Depart-  
ment.”

(a) “Department” shall mean Department of Agriculture;

“Minister.”

(b) “Minister” shall mean Minister of Agriculture;

“Regula-  
tions.”

(c) “Regulations” shall mean regulations made under the authority of this Act. R.S.O. 1927, c. 66, s. 1.

Department  
of Agricul-  
ture  
continued.

2. The Department of Agriculture shall be continued and shall be presided over by the Minister. R.S.O. 1927, c. 66, s. 2.

Deputy  
Minister.Rev. Stat.,  
c. 15.3. Subject to the provisions of *The Public Service Act* there may be appointed a Deputy Minister of Agriculture and such other officers, clerks and servants as the Minister may deem necessary for the proper conduct of the business of the Department. R.S.O. 1927, c. 66, s. 3.Powers of  
Minister.Rev. Stat.,  
c. 14.4. Subject to the provisions of *The Executive Council Act*, the Minister shall have the direction and control of,—

(a) the administration of the law relating to agriculture in all its branches;

(b) the administration of appropriations under the Department of Agriculture;

(c) the Ontario Agricultural College;

(d) The Ontario Veterinary College;

and shall have and perform such other functions, duties and powers as may be assigned to him by the Lieutenant-Governor in Council. R.S.O. 1927, c. 66, s. 4.



5. Where any work of the Department is carried on elsewhere than at the seat of Government, the Minister may appoint such officers, clerks, servants and labourers as he may deem necessary and may fix their salaries or other remuneration, and may designate the appropriation against which the same shall be charged and such salaries and other remuneration shall be payable out of such appropriation accordingly. R.S.O. 1927, c. 66, s. 5.

Appoint-  
ment and  
remunera-  
tion of  
outside  
officials.

6. The Minister shall in each year submit to the Lieutenant-Governor in Council a report of the proceedings of the Department during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, and if the Legislature is not at the time in session, then within thirty days after the commencement of the next session thereafter. R.S.O. 1927, c. 66, s. 6.

Annual  
report by  
Minister.

## CHAPTER 74.

## The Marketing Act.

Marketing  
board  
established.

1.—(1) There shall be established a board to be known as "The Ontario Marketing Board," hereinafter called the "Board," which shall consist of three persons to be appointed by the Lieutenant-Governor in Council with the powers and duties hereinafter set out.

Chairman,—  
Secretary.

(2) One of the persons so appointed shall be designated as chairman of the Board and there shall be a secretary of the Board who shall be appointed by the Lieutenant-Governor in Council.

Honor-  
ariums.

(3) The Lieutenant-Governor in Council may pay an honorarium to the chairman and other members of the Board. 1931, c. 17, s. 2.

Duties and  
powers.

2.—(1) It shall be the duty of the Board and they shall have power,—

Survey of  
conditions.  
Statistics.

(a) to make a general survey of conditions existing in the agricultural industry in all its branches and to prepare and maintain a tabulated register of all statistical and other information so obtained;

Information  
as to soil,  
climate, etc.

(b) to collect information regarding conditions as to the soil, climate and other particulars which may be useful in determining the adaptability of the various counties and districts in the Province for any particular class of farming or agricultural industry;

Recommend-  
ations as to  
packing, etc.

(c) to make recommendations as to packing, marketing and transporting of any agricultural product;

Marketing  
facilities.

(d) to seek the best possible local and other marketing facilities for any class of agricultural product;

Diffusion of  
information.

(e) to diffuse information among those concerned as to the agricultural facilities in Ontario and as to the best methods to be used in increasing productivity of the soil and the production of any particular class of agricultural products;

(f) to encourage in every way the best methods for the manufacture, preparation and packing of dairy products for marketing in Ontario or elsewhere; <sup>Dairy products.</sup>

(g) generally to promote the interests of the agricultural industry in Ontario as the Board may deem expedient. <sup>Generally.</sup>

(2) The Board shall report to the Minister of Agriculture from time to time upon its operations and whenever required by the Minister so to do shall direct every effort to the improvement and increase of marketing facilities for any particular class of agricultural products or for any particular article in any such class. 1931, c. 17, s. 3. <sup>Report to Minister.</sup>

3. The Minister, upon the recommendation of the Board may appoint committees, each of which shall consist of not more than three persons, for the purpose of assisting in carrying out the objects and purposes of the Board with regard to any class of agricultural products or with regard to any particular article in any such class, and the Minister may provide for the remuneration and expenses of any such committee. 1931, c. 17, s. 4. <sup>Committees acting for board.</sup>

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## CHAPTER 75.

## The Farm Products Control Act.

Inter-  
pretation.**1.** In this Act,—

“Board.”

(a) “Board” shall mean Farm Products Control Board;

“Farm  
products.”

(b) “Farm products” shall include animals, meats, eggs, poultry, wool, dairy products, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco and such other natural products of agriculture as the Lieutenant-Governor in Council may designate and such articles of food or drink manufactured or derived in whole or in part from any such product as the Lieutenant-Governor in Council may designate;

“Market-  
ing.”

(c) “Marketing” shall include buying, selling, shipping for sale or storage and offering for sale;

“Minister.”

(d) “Minister” shall mean Minister of Agriculture;

“Regula-  
tions.”

(e) “Regulations” shall mean regulations made under this Act. 1937, c. 23, s. 2.

Board to  
be body  
corporate.**2.—**(1) There shall be a board to be known as “The Farm Products Control Board”, which shall be a body corporate.

Members.

(2) The members of the Milk Control Board and the Commissioner of Marketing shall be the members of the Board.

Chairman.

(3) The Lieutenant-Governor in Council may appoint one of the members of the Board to act as chairman.

Allowances  
to members.

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant-Governor in Council may determine.

Officers,  
clerks,  
etc.,—  
appoint-  
ment of.

(5) The Board, subject to the approval of the Lieutenant-Governor in Council, may appoint such officers, clerks and employees as it deems necessary, and the remuneration of



such officers, clerks and employees shall be determined by the Lieutenant-Governor in Council.

(6) The moneys required for the purpose of the administration of this Act shall be paid out of such sums as may be appropriated by the Legislature and voted by the Assembly for that purpose. 1937, c. 23, s. 3.

3.—(1) The Board shall have authority to,—

Authority  
of Board.

(a) investigate, arbitrate, adjudicate upon, adjust or otherwise settle any dispute between producers, processors, distributors or transporters of farm products or between any two of such classes of persons;

(b) investigate the cost of producing, processing, distributing and transporting any farm product, prices, price-spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing of farm products;

(c) do such acts and make such orders and directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations and any scheme or plan declared to be in force under this Act;

(d) establish local boards for the purpose of carrying out any scheme or plan declared to be in force under this Act.

(2) Upon any investigation under this section the Board shall have the same powers as a commissioner under *The Public Inquiries Act*.

Powers of  
investi-  
gation.  
*Rev. Stat.*,  
c. 19.

(3) Every local board established by the Board shall have the same powers and duties in regard to the scheme or plan for which such local board is established as are conferred or imposed upon the Board. 1937, c. 23, s. 4.

Powers and  
duties of  
local board.

4.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,—

Regu-  
lations.

(a) regulating and controlling the marketing of farm products, including the agency through which such products may be marketed, within Ontario;

(b) providing for the licensing of persons engaged in the marketing or processing of any farm product;

- (c) prescribing the form of licenses and the terms and conditions upon which such licenses may be issued, renewed, suspended or revoked;
- (d) providing for the making of returns or the furnishing of information by any licensed person under this Act;
- (e) providing for the carrying out of any scheme or plan of marketing declared by the Lieutenant-Governor in Council to be in force;
- (f) providing for the furnishing of security or proof of financial responsibility by persons who purchase farm products for resale;
- (g) exempting any person or class of persons from the provisions of the regulations or any portion thereof;
- (h) generally for the better carrying out of the provisions of this Act.

Regulations  
may be  
limited.

(2) Any regulations made under this section may be limited as to time and place. 1937, c. 23, s. 5.

Board may  
refuse to  
grant new  
license.

5. The Board may refuse to grant or renew any license provided for under the regulations and may suspend or revoke any such license for failure to observe, perform or carry out any of the provisions of this Act, the regulations, any scheme or plan declared to be in force under this Act or any order or direction of the Board, provided that in every such case the applicant shall be afforded an opportunity of appearing before the Board to show cause why such license should not be refused, suspended or revoked or why such renewal should not be refused as the case may be. 1937, c. 23, s. 6.

Approval  
of scheme  
or plan of  
marketing.

6.—(1) Where the Board receives from any group of persons engaged in the marketing of any farm product, a petition asking that any scheme or plan for the marketing or regulation of such farm product be adopted, the Board may, if it is of opinion that such group of persons is fairly representative of the persons engaged in the phase of marketing represented by such group, recommend the adoption of such scheme or plan to the Minister.

Declaring  
scheme or  
plan in  
force.

(2) The Lieutenant-Governor in Council upon the recommendation of the Minister may approve any such scheme or plan or any part thereof with such variations or alterations as may be deemed necessary, and may by proclamation

declare such scheme or plan to be in force in Ontario or in any part thereof. 1937, c. 23, s. 7.

7. For the purpose of carrying out any scheme or plan for the marketing or regulation of a farm product, the Board may establish a separate fund and may impose direct charges or tolls in respect of the marketing of the whole or any part of such farm product, which charges and tolls shall be payable by such persons engaged in the production or marketing of such farm product as the Board may determine. 1937, c. 23, s. 8.

8.—(1) Any person who violates any of the provisions of this Act or the regulations, or of any scheme or plan declared to be in force under this Act, or any order or direction of the Board, shall be guilty of an offence and liable to a penalty not exceeding \$50 and for a subsequent offence to a penalty of not less than \$50 and not exceeding \$500.

(2) The penalties imposed under this section shall be recoverable under *The Summary Convictions Act*. 1937, c. 23, s. 9.

Establish-  
ment of  
fund and  
charges.

Penalty.

Recovery  
of penalty.  
Rev. Stat.,  
c. 136.

## CHAPTER 76.

## The Milk Control Act.

**"Milk."**

1. In this Act, unless the context otherwise requires, "milk" shall include whole milk and such products of milk as are supplied, processed, distributed or sold in any form other than butter and cheese. 1935, c. 40, s. 2.

**Board constituted.**

2.—(1) There shall be a board to be known as "The Milk Control Board of Ontario," hereinafter called the "board" which shall be a body corporate and have the powers and duties herein specified and the administration of this Act and the regulations.

**Number of members.**

(2) The board shall consist of one or more members to be appointed by the Lieutenant-Governor in Council to hold office during pleasure and if more than one member is appointed, the Lieutenant-Governor in Council shall designate which one of them shall be the chairman of the board and any vacancies in the said board shall be filled by the Lieutenant-Governor in Council.

**Remuneration, etc., of members.**

(3) The member or members of the board shall receive such remuneration, allowances and expenses as may be determined by the Lieutenant-Governor in Council.

**Appointment of officers, clerks, etc.**

(4) The board may, with the approval of the Lieutenant-Governor in Council appoint and employ such officers, clerks and employees as may be necessary, and the remuneration of persons so appointed shall be determined by the Lieutenant-Governor in Council. 1934, c. 30, s. 2 (1-4).

**Expenses of Board.**

(5) All moneys required for the purpose of this Act shall be paid out of any sum appropriated by the Legislature and voted by the Assembly for that purpose. 1935, c. 40, s. 3.

**License required.**

3.—(1) No person shall, directly or indirectly, engage in or carry on the business of supplying, distributing, transporting, processing or selling milk unless such person is the holder of a license issued by the board.

**Exception.**

(2) This section shall not apply to those persons or classes of



persons designated by the board in regulations passed under the authority of this Act. 1935, c. 40, s. 4.

4. It shall be the duty of the board and it shall have <sup>Duty and powers of board.</sup> power,—

- (a) upon its own initiative or upon complaint to inquire into any matter relating to the production, transportation, processing, distribution or sale of milk;
- (b) to arbitrate, adjust and settle disputes arising between producers, consumers, processors, distributors and transporters of milk or between any two or more classes of such persons engaged in the milk industry;
- (c) to prohibit in the Province any sale or delivery of milk or of cream or of milk and cream alone or in combination with any other article of trade, at a price lower than the current price of milk or cream or of a combination of milk or cream with any other article;
- (d) to prohibit milk distributors compelling or inducing producers to invest money either directly or indirectly in a dairy plant or other equipment in order that such producers may obtain or retain a market for their milk;
- (e) to prohibit milk distributors from terminating the purchase of milk from a producer without just cause;

and in each case shall make such order as it deems just, having regard to the circumstances. 1935, c. 40, s. 5; 1937, c. 42, s. 2.

5. No license shall be granted to a milk distributor unless <sup>When issue of license prohibited.</sup> the board is satisfied that the applicant is qualified by experience, financial responsibility and equipment to properly conduct the proposed business, and that the issuance of the license is in the public interest. 1935, c. 40, s. 6.

6. Subject to the provisions of section 5 the board may <sup>Power of board to refuse or revoke license.</sup> refuse to grant or renew a license or may suspend or revoke a license already granted, after due notice and opportunity of hearing to the applicant or licensee, when the board is satisfied of the existence of any one or more of the following conditions,—

- (a) failure to observe, perform and carry out the provisions of this Act or of <sup>Rev. Stat., cc. 76, 302; 304, 299.</sup> *The Milk and Cream Act*, *The Dairy Products Act*, *The Public Health Act* or

any other Act of this Legislature, or of the Parliament of Canada, or amendments thereof, or of any regulations made under any such Act which in any way pertains to and governs or regulates the supply of milk for human consumption;

(b) failure to provide for and continue in effect proof of financial responsibility as required by this Act or the regulations; 1935, c. 40, s. 7, *part*.

(c) failure to observe, perform and carry out any regulation or order of the board made under this Act. 1935, c. 40, s. 7, *part*; 1937, c. 42, s. 3.

Compliance  
with the  
Act

**7.** No person shall engage or be employed in any branch of the milk industry except as provided by and in accordance with this Act and the regulations. 1934, c. 30, s. 5.

Settlement  
of disputes.

**8.** No action may be brought respecting or for the determination of any dispute which by the Act or regulations is required to be determined by arbitration, and any such dispute shall be determined as provided for in the regulations. 1934, c. 30, s. 6; 1937, c. 42, s. 4.

Appeal  
from  
decision  
of board.

**9.** An appeal shall lie, by way of originating notice, from any order or decision of the board under section 5 or 6 to a judge of the Supreme Court who may receive such evidence, give such directions for the conduct of the proceedings, and make such order or decision thereon as he may deem just, and his decision shall be final and shall not be subject to appeal. 1935, c. 40, s. 7, *part*.

Promulga-  
tion of  
regulations.

**10.** Every regulation made under this Act shall be published by the board in two successive issues of the *Ontario Gazette* and when so published shall, while it remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. 1934, c. 30, s. 7.

Rebates  
prohibited.

**11.** Notwithstanding anything in *The Companies Act* or in any letters patent of incorporation or supplementary letters patent or in any other general or special Act contained, no person, firm or corporation shall give or distribute any fund, refund, rebate, interest or dividend to any purchaser of milk therefrom, either directly or indirectly in respect of such purchases of milk, except such interest or dividend as may be earned on capital invested by such purchaser in such firm or corporation. 1935, c. 40, s. 7, *part*.

Powers of  
board as to  
inquiry and  
report.

**12.** The board, or any person authorized by the board to make inquiry or report, may, when it appears expedient,—

- (a) enter upon and inspect any land, place, building, works or other property;
- (b) require the attendance of all such persons as it or he thinks fit to summon and examine and take the testimony of such persons;
- (c) require the production of all books, records, plans, specifications, drawings, writings and documents;
- (d) administer oaths, affirmations or declarations and shall have the like powers to summon witnesses, enforce their attendance and compel them to give evidence and produce books, records, plans, specifications, drawings, writings and documents which it or he may require them to produce as is vested in the Supreme Court. 1934, c. 30, s. 8.

**13.**—(1) Without derogating from the generality of the provisions of section 4, the board may, if it deems it in the public interest, subject to the provisions of subsection 2 approve any agreement respecting the price of milk and fair business practices entered into between producers, processors, milk dealers, transporters of milk and distributors or any of them, and when so approved, such agreement shall be binding upon every person, partnership, association or corporation, selling, delivering or buying milk within the limits of the area affected by the agreement. 1935, c. 40, s. 7, *part*; 1937, c. 42, s. 5 (1).

(2) The council of any municipality may appoint a representative of the milk consumers within such municipality who, upon notice to the board of such appointment, shall be entitled to appear before the board or any person authorized by the board to make inquiry, before any agreement affecting milk prices to the consumers within such municipality is approved. 1937, c. 42, s. 5 (2).

(3) Where the board has approved an agreement respecting the price of milk and fair business practices as provided in this section, non-compliance with any of the provisions of such agreement shall be a violation of this Act. 1935, c. 40, s. 7, *part*.

**14.** For the purpose of carrying out any scheme or plan for the marketing or regulating of any milk, the board may establish a separate fund and may impose direct charges or tolls in respect of the marketing of the whole or any part of such milk, which charges and tolls shall be payable by such

persons engaged in the production or marketing of such milk as the board may determine. 1937, c. 42, s. 7, *part*.

Regulations.

**15.**—(1) The board may make such regulations, with the approval of the Lieutenant-Governor in Council, as it deems necessary in the public interest, and without derogating from the generality of the foregoing may by such regulations,—

- (a) specify the terms and conditions upon which a license may be obtained and the fees payable therefor and the persons or classes of persons not required to be licensed as provided by section 3;
- (b) prescribe the terms and conditions upon which milk may be received, handled, transported, stored, delivered, supplied, processed, kept for sale or sold;
- (c) classify milk producers and distributors or any other persons engaged in the milk industry;
- (d) require persons who supply, distribute, transport, process, keep for sale or sell milk to furnish to the board such information as the board may from time to time require;
- (e) require any applicant for a license under this Act to furnish proof of financial responsibility and to require a bond from such applicant in such amount as the board may deem necessary;
- (f) provide for the form of orders and other forms to be used for the purpose of this Act;
- (g) prescribe the meetings and proceedings of the board;
- (h) prescribe the respective duties of the staff and of other persons employed by the board;
- (i) prescribe the records, books and accounts to be kept by the board;
- (j) prescribe the practice and procedure in all matters before the board and the conduct of all persons appearing before the board. 1935, c. 40, s. 8, *part*.
- (k) prescribe milk purchase plans and the dates of payment for milk purchased from producers;
- (l) prescribe the records to be kept by distributors, processors and transporters. 1937, c. 42, s. 6.



(2) Any regulations made under the authority of this section may be general in their application or may be limited to any locality or localities, or to any person or classes of persons, or to any branch of the milk industry mentioned therein. 1935, c. 40, s. 8, *part*.

Regulations may be general or limited.

**16.** No person, other than the owner thereof, shall use in the ordinary course of his business any milk bottle, milk can, milk case or any other equipment marked with the name of a milk distributor or dairy. 1937, c. 42, s. 7, *part*.

Prohibition against using milk containers.

**17.—(1)** The board shall make an annual report in writing to the Minister of Agriculture not later than the 31st day of January in every year showing a record of the meetings and an abstract of its proceedings during the preceding calendar year and containing such other matters as appear to the board to be of public interest in connection with matters within its jurisdiction or which the Lieutenant-Governor in Council may direct.

Annual report

(2) Every such report shall be laid before the Assembly forthwith if then in session, or if not then in session, within fifteen days after the commencement of the next session. 1934, c. 30, s. 10.

To be laid before Assembly.

**18.—(1)** Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations has been or is being committed, the Supreme Court or any judge thereof may, upon the application of the board, enjoin any purchaser, processor, transporter, distributor or dealer in milk from carrying on business as such purchaser, processor, transporter, distributor or dealer, absolutely, or for such period as shall seem just, and any injunction shall *ipso facto* cancel the license of any such purchaser, processor, transporter, distributor or dealer named in the order during the same period.

Injunction proceedings.

(2) The application of the board under subsection 1 may be made without any action being instituted either,—

Application may be ex parte,

(a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause *b* hereof is sooner heard and determined; or

(b) by an originating notice of motion which, if an interim injunction has been granted, shall be served

or by originating notice.

within five days and returnable within ten days from the date of such interim injunction. 1935, c. 40, s. 9.

Penalties.

**19.** Every person who violates any of the provisions of this Act or the regulations, or any order made under this Act shall be liable, for a first offence, to a penalty of \$50; and for a second or subsequent offence, to a penalty of not less than \$100, nor more than \$500, recoverable under *The Summary*

Rev. Stat.,  
c. 136.

*Convictions Act.* 1935, c. 40, s. 10.

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## CHAPTER 77.

## The Agricultural Development Finance Act.

**1.**—(1) The Treasurer of Ontario is hereby empowered to borrow money by means of deposits in any amounts and from any persons or corporations and to open offices for this purpose at such points in the Province of Ontario as he may find necessary. R.S.O. 1927, c. 67, s. 1.

Powers of  
Treasurer of  
Ontario to  
borrow.

(2) Moneys deposited under this section shall be subject to attachment in the same manner as money deposited in any chartered bank. 1932, c. 53, s. 6.

Moneys  
subject to  
attachment.

**2.** Subject to the approval of the Lieutenant-Governor in Council the Treasurer may from time to time fix the conditions as to interest and repayments which shall govern such deposits but the rate of interest paid shall be not more than four per centum per annum. R.S.O. 1927, c. 67, s. 2.

Conditions  
as to  
interest and  
payment.

**3.** Moneys available under this Act shall be used for investment for any one or all of the following purposes and no other:—

For what  
purposes  
money  
may be  
used.

(a) loans to members of associations under *The Farm Loans Act*;

Rev. Stat.,  
c. 79.

(b) bonds or debentures issued under *The Agricultural Development Act*;

Rev. Stat.,  
c. 78.

(c) bonds or debentures of or guaranteed by the Dominion of Canada or any Province of Canada;

(d) bonds or debentures of or guaranteed by any municipality or school section in the Province of Ontario. R.S.O. 1927, c. 67, s. 3.

(e) securities in which under *The Trustee Act*, trustees may invest trust funds. 1933, c. 59, s. 4.

Rev. Stat.,  
c. 165.

**4.** For the carrying out of this Act the Treasurer, with the approval of the Lieutenant-Governor in Council, may appoint such officers as he shall deem necessary and all expenses shall be paid out of and all revenue paid into the Consolidated Revenue Fund. R.S.O. 1927, c. 67, s. 4.

Appoint-  
ment of  
officers.

**5.** The Lieutenant-Governor in Council, upon the recommendation of the Treasurer, may make regulations for the better carrying out of this Act. R.S.O. 1927, c. 67, s. 5.

Regulations.

## CHAPTER 78.

## The Agricultural Development Act.

Interpreta-  
tion.

1. In this Act,—

“Board.”

(a) “Board” shall mean Agricultural Development Board;

“Minister.”

(b) “Minister” shall mean Minister of Agriculture.  
R.S.O. 1927, c. 68, s. 1.

Establish-  
ment of  
Board.

2.—(1) There shall be established a board to be known as the Agricultural Development Board, which shall consist of two or more persons to be appointed by the Lieutenant-Governor in Council who shall hold office during pleasure.  
R.S.O. 1927, c. 68, s. 2 (1); 1935, c. 2, s. 2.

Board, a  
body  
corporate.

(2) The Board shall be a body corporate. R.S.O. 1927, c. 68, s. 2 (2).

Duty of  
Board.

3. It shall be the duty of the Board to promote agricultural development by means of loans as hereinafter provided and in such other manner as the Board may deem advisable.  
R.S.O. 1927, c. 68, s. 3.

Board may  
issue bonds.

4. The Board, with the approval of the Lieutenant-Governor in Council, shall have power from time to time to issue bonds of the Board to the amount of \$500,000 in such denominations and at such rates of interest as the Board may deem proper and subject to such conditions as to the sale and disposal thereof as the Board may deem advisable.  
R.S.O. 1927, c. 68, s. 4.

Treasurer  
may pur-  
chase bonds.

5. The Lieutenant-Governor in Council may authorize the Treasurer of Ontario, out of the Consolidated Revenue Fund, to purchase any bonds or debentures issued by the Board under the authority of this Act. R.S.O. 1927, c. 68, s. 5; 1935, c. 2, s. 3.

Proceeds of  
bonds; how  
dealt with.

6. All moneys received by the Board from the sale of the bonds issued under section 4 shall be deposited in a separate account of the Board in any chartered bank of Canada or in the office of any company or corporation authorized to



accept deposits and such moneys shall be used solely for the purposes hereinafter set forth. R.S.O. 1927, c. 68, s. 6.

7.—(1) The Board, with the approval of the Lieutenant-Governor in Council, may from time to time issue debentures in such denominations and at such rate of interest as the Board may deem advisable and as may be approved by the Lieutenant-Governor in Council, and the proceeds of any debentures so issued shall be disposed of in the manner provided by section 6 in respect to the proceeds of the sale of bonds issued by the Board. R.S.O. 1927, c. 68, s. 7 (1). Issue of debentures by Board.

(2) The debentures so issued shall be issued upon the security of the assets of the Board and shall not exceed the amount of such assets and such debentures shall be a first charge upon all the assets and revenues of the Board. R.S.O. 1927, c. 68, s. 7 (2); 1935, c. 2, s. 4. Security.

(3) Notwithstanding anything in any other Act contained the bonds and debentures of the Board shall be at all times a lawful investment for municipal, school and trust funds. R.S.O. 1927, c. 68, s. 7 (3). Lawful investment for municipal, school and trust funds.

8.—(1) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario to guarantee payment on behalf of the Province of Ontario of any bonds or debentures issued by the Board under the authority of this Act. Authority to guarantee payment of bonds and debentures.

(2) The form of guaranty and the manner of its execution shall be determined by the Lieutenant-Governor in Council. R.S.O. 1927, c. 68, s. 8. Form of guaranty.

9.—(1) Out of the moneys at its disposal from time to time as the proceeds of the sale or hypothecation of any bonds or debentures issued by the Board, the Board may make loans for the following purposes and no other,— Board may make loans, for what purposes.

- (a) acquiring land for agricultural purposes;
- (b) the erection of farm buildings essential to production;
- (c) to pay off charges existing against land at the time of acquisition by the borrower under a will or by descent;
- (d) to pay off encumbrances, in which cases loans shall not exceed fifty per centum of the valuation;
- (e) for the purpose of providing tile drainage;

(f) to purchase breeding live stock;

(g) to consolidate outstanding liabilities incurred for productive agricultural purposes. R.S.O. 1927, c. 68, s. 9 (1).

Loans.

(h) for such other purposes relating to the development and operation of the applicant's farm as the Board approves. 1935, c. 2, s. 5 (1).

Collateral security.

(2) At the time of or subsequently to the making of the loan the Board may accept as collateral security for any loan made under the authority of this Act, a life insurance policy or an assignment thereof or any other security which the Board may deem proper. R.S.O. 1927, c. 68, s. 9 (2); 1935, c. 2, s. 5 (2).

Composition extension, of time, etc.

(3) The Board may make such composition, extension of time or scheme of arrangement with any borrower on his loan as the Board deems advisable. 1935, c. 2, s. 5 (3).

Committees—qualification.

**10.** The Board with the approval of the Lieutenant-Governor in Council, may appoint committees, each of which shall be composed of two or more competent persons, one of whom shall be or shall have been a practical farmer, to consider and report to the Board upon applications and upon problems which may arise in connection with loans already made. 1935, c. 2, s. 6.

Qualifications of applicants for loans.

**11.** Every applicant for a loan under this Act may be required to appear in person before the board or a qualification committee and shall submit evidence to the satisfaction of the board or committee,—

(a) that he is a British subject of at least twenty-one years of age and has been resident in Canada for at least three years;

(b) that he has had at least three years experience in farming and has displayed average ability and capacity;

(c) that he is of good character;

(d) that he is actually engaged or intends to engage upon the land upon the security of which the loan is to be made. R.S.O. 1927, c. 68, s. 11.

Limitations as to loan.

**12.—(1)** No loan shall exceed \$7,500, and every loan shall be secured by a first mortgage upon lands suitable for agricultural purposes. R.S.O. 1927, c. 68, s. 12 (1); 1935, c. 2, s. 7.

(2) On a property of less than fifty acres the maximum valuation to be recognized by the Board, shall be \$300 per acre. On less than fifty acres. R.S.O. 1927, c. 68, s. 12 (2).

**13.**—(1) Before making a loan under this Act, the Board shall secure from a competent valuator a report as to the value of the security offered by the applicant. Valuator's report.

(2) The land and buildings shall be valued on the basis of their value for agricultural purposes. Mode of valuing.

(3) The buildings upon the land shall be insured to their full insurable value. Insurance. R.S.O. 1927, c. 68, s. 13.

**14.** Where the Board is satisfied that the conditions of this Act have been complied with and that agricultural development will be promoted by the loan, the board may make a loan to the applicant to the extent of fifty per centum of the value of the security as shown by the valuator's report. Extent of loan. R.S.O. 1927, c. 68, s. 14; 1935, c. 2, s. 8.

**15.**—(1) Except as hereinafter provided, every loan made under this Act shall be repayable in equal annual instalments of principal and interest sufficient to discharge the debt at the end of such period as may be agreed upon, but no loan shall be made for more than thirty years. Loan,—how repayable.

(2) Payments on account of the said loan, in addition to those provided for in the mortgage or agreement, may be made at any time. Payments on account of loan.

(3) Notwithstanding anything contained in this Act, the Board may accept payment of interest without principal for any period not exceeding three years and may, at any time at its discretion, alter the provisions for payment of any mortgage and may consolidate the total indebtedness owing by any mortgagor to the Board, inclusive of accrued interest and moneys paid for taxes and insurance to the date of consolidation and alter the provisions of the mortgage so that the consolidated indebtedness with interest may be repayable in annual instalments within a period not exceeding thirty years from the date of consolidation. Provisions of payment,—alterations in.

(4) The Board may, with the approval of the Lieutenant-Governor in Council, make regulations relating to sales made by the Board under the power of sale contained in any mortgage where the purchase money or part thereof is secured by an agreement for sale and such regulations may be to the same effect as those provided for in subsection 3 and in subsection 3 of section 9. Regulations.

Equity of redemption,—  
Board may accept release of.

(5) The Board may accept a release of the equity of redemption existing by virtue of a mortgage to it and may sell any mortgaged property which it has thus acquired or which it is empowered to sell by virtue of the power of sale contained in a mortgage, at such price and upon such terms as in its discretion is deemed advisable.

Delay in payments.

(6) When a sale has been made by the Board under the powers of sale contained in any mortgage and the purchase money or part thereof is secured by an agreement for sale and any instalment, whether for principal or interest payable under the said agreement for sale, is not punctually paid, or if the purchaser makes default in the performance of any of the terms of such agreement, the Board, without any formal re-entry or taking of possession and without resorting to proceedings in equity or at law, may, upon ten days' notice in writing to the purchaser directed by mail to him at his address last known to the Board, rescind such agreement and resell or otherwise deal with the property as provided for in the said mortgage, to the same extent as if the said agreement for sale had not been entered into. 1935, c. 2, s. 9.

Mortgages,—  
how made.  
Rev. Stat.,  
c. 160.

**16.** Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act*, and may contain such further covenants, provisos and conditions as the Board may deem proper, and the Board shall have and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of the Province of Ontario. R.S.O. 1927, c. 68, s. 16.

Board to prepare notices, mortgages, etc.

**17.** All notices, mortgages, discharges or other documents of every kind and description made or used under this Act shall be prepared by the Board or by some person to be designated by the Board. R.S.O. 1927, c. 68, s. 17.

Where money misapplied.

**18.**—(1) If at any time in the opinion of the Board any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value the Board may refuse to make any further advance and call in the whole amount already advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same, with interest at the rate set forth in the mortgage, and in default of payment the Board shall have the like remedies for recovery of the same as if the time for repayment thereof had fully arrived. R.S.O. 1927, c. 68, s. 18.



(2) It shall be a term of every mortgage taken as security <sup>Terms of mortgage.</sup> for a loan that upon the sale of the farm land mortgaged, the loan shall, at the option of the Board, immediately become due and payable. 1935, c. 2, s. 10.

**19.**—(1) Every payment made on a mortgage given under this Act shall be disposed of as follows: <sup>Payments on mortgages,—how disposed of.</sup>

(a) That portion of such payment which consists of principal shall, at the option of the Board, be paid to the Treasurer of Ontario from time to time as received, to provide for the payment of the principal, payable upon the debentures issued by the Board and held by the Treasurer of Ontario; or the Board may, if it so desires, retain the principal portion of such payment and reinvest same in first mortgages according to the provisions of this Act, and such moneys, shall, while in the hands of the Board be placed in a special account, and shall be kept entirely separate and distinct from the other accounts and funds of the Board, and in the event of the Board retaining and reinvesting such principal, the Treasurer of Ontario shall, at the end of each fiscal year and upon the certificate of the Provincial Auditor, cancel the Board's debentures up to the amount reinvested by the Board during such year and accept from the Board, new debentures for such amount.

(b) That portion of such payment which consists of interest and all other revenue of the Board on account of loans shall be applied, in the first instance, in payment of salaries and other operating expenses of the Board and then to payment of losses written off or sustained on the sale of mortgaged properties and the balance then remaining shall be paid to the Treasurer of Ontario in payment of interest on debentures issued by the Board. 1935, c. 2, s. 11.

(2) Any other revenue of the Board on account of loans shall be credited to a reserve fund account and shall at the end of each calendar month be transferred to the Consolidated Revenue Fund. R.S.O. 1927, c. 68, s. 19 (2). <sup>Other revenue of Board.</sup>

**20.** It shall be the duty of the Board from time to time to secure reports as to the condition of any securities taken by it for loans under this Act, and as to the progress and prospects of the borrowers, and for this purpose the Department of Agriculture may co-operate with the Board by render- <sup>Duty of Board to secure reports as to condition of securities.</sup>

ing assistance of an educational or other nature which appears calculated to facilitate the success of the borrower. R.S.O. 1927, c. 68, s. 21.

Salaries and travelling expenses of Board.

**21.** The Lieutenant-Governor in Council may fix the salaries or other remuneration and an allowance for travelling or other expenses of the Board and its employees. R.S.O. 1927, c. 68, s. 22; 1935, c. 2, s. 13.

Salaries and remuneration,—how payable.

**22.** The salaries or other remuneration of the Board and its officers and employees and all expenses of the Board or connected with the administration of the Act, shall be a first charge upon the interest payments received by the Board and shall be payable out of same as approved by the Board, and any additional moneys required for these purposes shall be paid out of the Consolidated Revenue Fund upon the certificate of the Minister or of an officer designated by him for that purpose. 1935, c. 2, s. 14.

Appointment of valuers.

**23.** The Board with the approval of the Lieutenant-Governor in Council may appoint such valuers and other officers, and may engage such clerical and other assistance as may be deemed necessary in carrying out the work of the Board. R.S.O. 1927, c. 68, s. 24.

Board to make annual report.

**24.—(1)** The Board shall make an annual report in writing to the Minister on the 31st day of January, showing in detail the number and amount of loans made by the Board during the last preceding fiscal year, and the amount of every issue of bonds or debentures made by the Board and outstanding, with the date and terms of every such issue, and the expenses of administration, and with such other particulars as the Minister may require. R.S.O. 1927, c. 68, s. 25 (1); 1935, c. 2, s. 15.

Report to be laid before ensuing session of Legislature.

**(2)** Every such report shall be laid before the Assembly at the next ensuing session of the Legislature. R.S.O. 1927, c. 68, s. 25 (2).

Regulations.

**25.** The Board with the approval of the Lieutenant-Governor in Council may from time to time make regulations respecting,—

- (a) the meetings and proceedings of the Board;
- (b) the respective duties of the staff and of the other persons employed by the Board;
- (c) the mode in which applications for loans are to be made and the forms thereof;

- (d) the forms of mortgages to be taken by the Board, including all provisions to be inserted therein;
- (e) the fees and expenses payable by borrowers under the provisions of this Act;
- (f) the conditions that may be imposed in regard to loans;
- (g) the consideration and granting of applications for loans;
- (h) the valuations to be made in relation to applications for loans;
- (i) the records, books and accounts to be kept by the Board and the auditing of its accounts;
- (j) any other matter necessary for the better carrying out of the purposes and objects of this Act. R.S.O. 1927, c. 68, s. 26.

**26.**—(1) The Lieutenant-Governor in Council may establish the office of Commissioner of Agricultural Loans and may from time to time appoint a person to hold the said office. Commissioner of Agricultural Loans.

(2) The Commissioner of Agricultural Loans shall be a corporation sole under that name with perpetual succession and an official seal and may sue and be sued under the above name in the same manner as any other corporation sole. Commissioner to be corporation sole.

(3) Upon the appointment of any person to the office of Commissioner of Agricultural Loans, all the powers, rights, duties and obligations of the Board shall be transferred to and be vested in and thereafter be performed by and be binding upon the Commissioner of Agricultural Loans and wherever in this Act or the amendments thereto the Board is referred to, such reference, after the establishment of the office of Commissioner of Agricultural Loans, shall be read and taken as referring to said office. Transfer of duties from Board to Commissioner.

(4) Upon the establishment of the office of Commissioner of Agricultural Loans, all legal and other proceedings theretofore commenced and then pending in any court or otherwise may be carried on by the Commissioner of Agricultural Loans by his name of office. R.S.O. 1927, c. 68, s. 27. Proceedings may be continued by Commissioner.

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## CHAPTER 79.

## The Farm Loans Act.

Interpreta-  
tion.**1.** In this Act,—“Associa-  
tion.”

(a) “Association” shall mean farm loan association incorporated under the provisions of this Act;

“Board.”

(b) “Board” shall mean Agricultural Development Board;

“Directors.”

(c) “Directors” shall mean directors of a farm loan association;

“Local munici-  
pality.”

(d) “Local municipality” shall mean township or incorporated village;

“Minister.”

(e) “Minister” shall mean Minister of Agriculture;

“Secretary-  
Treasurer.”

(f) “Secretary-Treasurer” shall mean secretary-treasurer of a farm loan association. R.S.O. 1927, c. 69, s. 1.

## FARM LOAN ASSOCIATIONS.

Farm  
loan  
association.**2.** A farm loan association may be formed for the purpose of loaning money under this Act in any part of Ontario described in the certificate of incorporation. R.S.O. 1927, c. 69, s. 2.

Application.

**3.** Where it is desired to form such an association, an application in such form as may be prescribed by the regulations and describing the territory for which the association is to be formed shall be forwarded to the Agricultural Development Board at Toronto. R.S.O. 1927, c. 69, s. 3.Temporary  
secretary-  
treasurer.**4.—(1)** The Board shall name a person to act temporarily as secretary-treasurer of the proposed association, and shall instruct the secretary-treasurer to call a meeting of those interested.Provisional  
directors.**(2)** At such meetings five provisional directors shall be elected, and the work of organization shall be completed under their direction. R.S.O. 1927, c. 69, s. 4.



5. Any person resident in the territory described in the application and actually engaged in farming operations, or agreeing to become so engaged within one year, shall be eligible for membership. Persons eligible for membership. R.S.O. 1927, c. 69, s. 5.

6. No association shall be deemed to be incorporated until a certificate of incorporation setting forth that all the terms of this Act have been complied with has been issued by the Board as hereinafter provided. Certificate of incorporation. R.S.O. 1927, c. 69, s. 6.

#### CAPITAL STOCK.

7.—(1) The amount of the capital stock of the association shall be fixed by the Board and shall be made up as follows;— Capital stock.

(a) one share of par value of \$100 to be subscribed by each member;

(b) shares of par value of \$100 to the extent of one half of the total amount subscribed by individual members subscribed for by the corporations of local municipalities in the territory for which the association is formed;

(c) shares of par value of \$100 each to the extent of one-half of the total amount subscribed by individual members subscribed for by the Government of Ontario.

(2) No association shall be incorporated or carry on business until at least thirty members have subscribed for stock in the association. Minimum number of members. R.S.O. 1927, c. 69, s. 7.

8. Each member shall pay ten per centum of the par value of his stock at the time of subscription and the balance when called upon, and payments by municipal corporations and the Government of Ontario shall be made at the same time and in the same proportions as those of individual members. Terms of payments. R.S.O. 1927, c. 69, s. 8.

9. The council of any local municipality may in their discretion by by-law subscribe to the stock of any association incorporated under this Act to the extent and upon the terms herein provided, and may pay for the stock subscribed for and take all steps incidental thereto and to the carrying out of the provisions of this Act and may issue debentures of the corporation payable within a period not exceeding ten years, for the amount of such subscription in the manner Council of local municipality may subscribe.

Rev. Stat.,  
c. 266.

provided by *The Municipal Act*, but it shall not be necessary to submit any by-law for the issue of such debentures to the electors qualified to vote on money by-laws nor to observe the other formalities in relation thereto prescribed by *The Municipal Act*. R.S.O. 1927, c. 69, s. 9.

Where two  
or more  
municipalities  
combine.

**10.** In the event of two or more municipalities combining in such subscription, the stock held by them may be held in the joint names of the corporations or severally in such proportions as they may agree upon, and may be acted upon in such joint or separate manner as they may from time to time agree upon. R.S.O. 1927, c. 69, s. 10.

Treasurer  
of Ontario,  
when may  
subscribe.

**11.** Upon receipt of a report from the Board that an association is being formed in accordance with this Act, the Treasurer of Ontario, with the approval of the Lieutenant-Governor in Council, may subscribe for shares in accordance with clause *c* of section 7, and all necessary payments shall be made out of the Consolidated Revenue Fund or in bonds or other securities issued or guaranteed by the Province of Ontario. R.S.O. 1927, c. 69, s. 11.

Appoint-  
ment of  
directors.

**12.—(1)** To represent the stock subscribed and to assist generally in the conduct of the business of the association, two directors shall be appointed by a municipal corporation subscribing, or if more than one municipal corporation is subscribing, one director shall be appointed by each corporation and in every case two directors shall be appointed by the Lieutenant-Governor in Council.

Directors'  
term of  
office.

**(2)** Directors named under this section shall serve for a period of two years or until their successors are appointed. R.S.O. 1927, c. 69, s. 12.

Transfer  
of shares  
to have  
approval  
of board.

**13.** Shares owned by members may be transferred to other members or purchased by the association only with the approval of the board of directors. R.S.O. 1927, c. 69, s. 13.

When  
moneys  
to be in-  
vested by  
secretary-  
treasurer.

**14.—(1)** The secretary-treasurer shall be responsible for all moneys or securities realized by the sale of capital stock and such moneys, or securities shall, where not needed for liabilities, be invested in bonds or debentures of or guaranteed by a government or municipality, as may be ordered by the directors with the approval of the Board.

Secretary-  
treasurer  
to give  
security.

**(2)** The secretary-treasurer shall give such security for the due performance of the duties of his office and for the safe custody of the moneys coming to his hands as may be prescribed by the regulations, and he shall at all times keep

all moneys and securities in his hands separate from his own moneys and shall deposit the same in a chartered bank to the credit of the association. R.S.O. 1927, c. 69, s. 14.

#### ORGANIZATION.

**15.** When capital stock has been arranged for as pre-Organization of associations.  
scribed, the secretary-treasurer shall call a meeting of the members and the directors named by the subscribing municipality and the Province and such meeting shall select the proposed corporate name, to wit "Farm Loans Association of (*insert name*)," and shall complete the organization of the association. R.S.O. 1927, c. 69, s. 15.

**16.**—(1) The subscribing members shall, at such meeting, Officers.  
from among themselves elect a president, vice-president and one director who, with the directors named by the municipality and the Province shall constitute the board of directors.

(2) The president, vice-president and director shall hold office for one year or until their successors are elected. R.S.O. 1927, c. 69, s. 16.

**17.**—(1) The secretary-treasurer, immediately after the holding of the meeting, shall advise the Board that organization has been completed and shall give the names of officers and directors and make application for a certificate of incorporation. Application for certificate of incorporation.

(2) Upon receipt of such application the Board may issue a certificate of incorporation to the association in the name approved and thereupon the association shall be a body corporate and shall for all purposes be deemed to be duly incorporated and may carry on business and exercise all the powers conferred upon it by this Act. Association, when to be deemed incorporated.

(3) Upon a vacancy occurring among the directors, such vacancy shall be filled by the body appointing the director whose seat has become vacant. Vacancy in directorate.

(4) Two of the directors elected by the members and three of the directors appointed by the municipality and the Government shall constitute a quorum of the directors of the association. R.S.O. 1927, c. 69, s. 17. Quorum.

**18.** The board of directors shall be responsible for carrying on the business of the association, shall appoint a secretary-treasurer, who may or may not be a member, and shall have power to fix the duties of all officers and, subject to the Appointment of secretary-treasurer.

regulations, make rules governing procedure at all meetings of the directors or the association and the conduct of the association generally. R.S.O. 1927, c. 69, s. 18.

Officers and directors to be paid only for disbursements.

**19.** No officer or director, except the secretary, shall be paid any salary or fee by the association, other than actual disbursements necessarily made in attending to the business of the association and approved by the directors. R.S.O. 1927, c. 69, s. 19.

Annual meeting.

**20.** An annual meeting of the association shall be held once in every year, between the 1st day of January and the 1st day of March, of which due notice shall be given by the secretary by letters addressed to each subscriber and director, and at such meeting reports shall be presented by the officers showing fully the business done by the association during the last calendar year. R.S.O. 1927, c. 69, s. 20.

Additional members, when admitted.

**21.** After the incorporation of an association additional members may be admitted with the approval of the directors and under such conditions as the directors may prescribe. R.S.O. 1927, c. 69, s. 21.

#### OBJECTS.

Objects.

**22.** The object of an association incorporated under this Act shall be to promote individual prosperity and agricultural development by securing for members short-term loans for current expenditures. R.S.O. 1927, c. 69, s. 22.

Where association desires credit.

**23.** When an association desires to secure credit for its members the secretary shall advise the Board, who shall inform the association as to the facilities available and the steps to be taken in furtherance of the provisions of this Act. R.S.O. 1927, c. 69, s. 23.

#### SHORT-TERM LOANS.

Short-term loans may be made, for what purposes.

**24.—(1)** Any member of an association shall be entitled to apply for a short-term loan for any one or more of the following purposes;—

- (a) purchase of seed, feed, fertilizer and other supplies;
- (b) purchase of implements and machinery;
- (c) purchase of cattle, horses, sheep, pigs and poultry;



- (d) payment of cost of carrying on any farming, ranching, dairying or other agricultural operations;
- (e) payment of the cost of preparing land for cultivation;
- (f) fire or life insurance where required, in the opinion of the directors, as collateral security for a loan made for any of the above-mentioned purposes.

(2) No loan to any member shall exceed in amount \$2,000 <sup>Limit of amount of loan.</sup> but an additional loan or loans may be made to a member of an association provided that the total amount of indebtedness outstanding on account of any member shall not at any time exceed \$2,000. R.S.O. 1927, c. 69, s. 24.

#### APPLICATION FOR LOAN.

**25.** Any member of an association desiring a loan shall sign an application in the form prescribed, stating the amount required and the purpose for which it is to be used, and agreeing to repay the said loan at a date therein to be named, which shall not be later than the 31st day of December next thereafter, together with interest at the rates fixed in accordance with the terms of this Act. R.S.O. 1927, c. 69, s. 25. <sup>Application for loan, what to include.</sup>

**26.** All such applications shall be delivered to the secretary and shall be by him presented to the directors at the next following meeting, and the directors shall determine whether any such application shall be approved, and may approve the same in part or on such terms as they may deem proper, and may demand such security from the applicant as they may think necessary, and in the event of the application being approved in part only or being varied, a new application shall be signed by the applicant in accordance with the approval and the former application cancelled. R.S.O. 1927, c. 69, s. 26. <sup>Approval of directors.</sup>

**27.**—(1) When an application has been finally approved by the directors, such approval shall be certified on the application in the form prescribed and shall be signed by the secretary and by the president or vice-president, and a record of all applications approved shall be entered in the minutes of the association, and one duplicate or copy thereof shall be delivered to the applicant and another duplicate or copy retained by the association. <sup>Form of approval.</sup>

(2) In the event of the absence from any cause of any such officers the directors may by resolution authorize any other officer to sign the approval in his stead. R.S.O. 1927, c. 69, s. 27.

Original copy of application with approval to be delivered to bank or person authorized by directors.

**28.** Whenever an application has been duly made and approved, the secretary shall deliver the original thereof to such bank or person as the directors shall have authorized, and shall settle the times and conditions at and upon which the amount shall be advanced, and, upon the same being agreed to by the lender, shall advise the applicant and shall enter a record thereof in the books of the association. R.S.O. 1927, c. 69, s. 28.

Note may be required.

**29.** Before any moneys are advanced in pursuance of an approved application, the lender or association may require the borrower to sign a note or notes for the amount of the moneys to be advanced, and the association shall endorse such note or notes, but the terms of such notes shall not vary in any way from the terms of the approved application or from the provisions of this Act, and the secretary is hereby authorized to endorse such notes on behalf of the association. R.S.O. 1927, c. 69, s. 29.

Interest.

**30.** The rate of interest payable by a borrower on a loan guaranteed by an association shall not exceed seven per centum per annum, and out of the interest paid one-seventh shall be paid to the association for the purposes hereinafter mentioned, which share of interest shall be paid by the lender to the association as soon as the loan and all interest thereon has been received by him and the security given to the lender shall not be surrendered until all such interest charges have been paid. R.S.O. 1927, c. 69, s. 30.

Renewal.

**31.** In the event of a borrower not being able to repay the amount of his loan on or before the 31st day of December for reasons which appear to the directors to be justifiable, or on account of the loan having been granted for purposes not productive within one year, the directors may, on the application of the borrower, authorize a renewal of any portion of the said loan until such further time as may be agreed, but not later than one year next after the maturity of the previous loan, and the application for such renewal loan shall be in the same form as for any original loan, except that it shall be stamped with the word "Renewal," and shall be kept distinct from any new application made by the same borrower, but in all other respects the provisions of this Act relating to applications and the endorsements thereof, and the rights and liabilities arising thereunder, shall be applicable to such renewals. R.S.O. 1927, c. 69, s. 31.

Failure of borrower to make payments.

**32.—(1)** In the event of a borrower failing to pay the amount of his loan, or renew the same within one month from the due date, the lender may demand payment of the amount

owing, with interest thereon to date of payment, and the association shall within fifteen days from the receipt of such demand provide for the payment of such amount.

(2) If on the expiry of the fifteen days payment has not been made to the lender the balance unpaid on the subscriptions of the several members, the municipal corporation and the Government of Ontario shall forthwith become due and payable, and the liability of the municipal corporation and of the Government respectively to make payment thereof to the amount of such demand shall not be contingent upon payment by the members or any of them.

(3) Upon payment the lender shall deliver to the association all securities held by him for the said loan or any part thereof, and the association shall be entitled to recover the amount so paid from the borrower by any means authorized by this Act or by any other statute or law applicable thereto. R.S.O. 1927, c. 69, s. 32.

**33.** Every lender from whom loans are obtained by any association under this Act shall forward to the Board a <sup>Monthly</sup> return showing each loan made by it under the Act, and the amount advanced at the date of such return and also showing all loans, if any, then past due. R.S.O. 1927, c. 69, s. 33.

#### SECURITY.

**34.** All animals, machinery, goods or personal property of any kind purchased or partly purchased with the proceeds of a loan obtained under this Act, or for the purchase of which a loan has been granted, together with the offspring of such animals and the crops or other products grown upon any lands for the working of which such loan has been made or used, shall be subject to a lien for the amount of the loan in favour of the association approving without any further writing or act by the borrower, and none of the said property shall be removed from the premises of the borrower or beyond the limits of the district in which the association is authorized to carry on business, during the currency of such loan, without the consent of the secretary, except for the purpose of sale, and all proceeds of the sale of any of the said property shall without delay be paid to the lender on account of the said loan. R.S.O. 1927, c. 69, s. 34.

**35.**—(1) The directors may, before granting any application, require such further security as they may think necessary, and upon such terms and conditions as they may approve of.

(2) The directors are hereby authorized to take in the name of the association any form of security and to exercise all rights thereunder, and may assign such security, with all rights appertaining thereto, to the lender.

(3) The powers of the directors as to taking security in the name of the association shall extend to and include the power to take, by way of additional security, mortgages on real or personal property or assignments of agreements of sale thereof, and to exercise all rights conferred by such securities. R.S.O. 1927, c. 69, s. 35.

When association may have lien on personal property of borrower.

**36.**—(1) The association shall have a lien or charge on all the personal property of the borrower for securing repayment of any such loan, upon filing a certificate of the secretary of the association in the office of the clerk of the county or district court of the county or district in which is situated the land upon which the borrower carries on the operations for which the loan was made to him, showing the amount of the loan and the name and address of the borrower.

Registration of certificate.

(2) The certificate shall be registered within five days from the date thereof and shall have effect only from the date of registration.

Discharge of lien.

(3) The registration in the same office of a subsequent certificate signed by the secretary of the association, showing repayment of such loan, shall operate as a discharge of such lien.

No charge for registration of certificate and discharge.

(4) The clerk of the county or district court shall register said certificate and discharge without the payment of any fee therefor. R.S.O. 1927, c. 69, s. 36.

Right of entry of bank or person making loan.

**37.** The bank or person making a loan, or a representative, and the association endorsing a loan, or any officer or director thereof, shall have the right at any time during the currency of the loan to enter on the premises of the borrower and enquire into the manner in which the borrower is carrying on such farming or other operations as are required for the proper development of the purposes for which the loan was granted, or to ascertain that the terms of the loan are being carried out, or that the security for the loan is in good condition and on the premises of the borrower in the district. R.S.O. 1927, c. 69, s. 37.

Death, insolvency, or mental illness of borrower.

**38.** In the event of the death, insolvency or mental illness of the borrower, or of his deserting the premises, or of his failure to carry out the purposes of the loan, the directors of the



association, or any three thereof, may apply to any county court judge for an order placing the association, or any person named by it, in possession of all goods, animals or property covered by any security given under this Act, and of any or all other property, real or personal, of the borrower lying within the municipality which may be required for the proper care, use, or preservation of the security, and such judge shall have power, after such notice to the borrower as he may think reasonable, or without notice, to make an order for the purposes aforesaid and to authorize such persons as he may name to carry out the provisions of such order. R.S.O. 1927, c. 69, s. 38.

**39.** No person who has obtained a loan under this Act, any part of which remains unpaid, shall dispose of or attempt to dispose of his stock, chattels or crops otherwise than in the ordinary course of business. R.S.O. 1927, c. 69, s. 39. Disposing of property covered by lien.

**40.** The borrower shall be personally liable for the payment of the amount of any loan granted under this Act, or any balance thereof, and for all interest charges and costs of collection thereof. R.S.O. 1927, c. 69, s. 40. Borrower to be personally liable.

**41.** It shall not be incumbent on any person or bank making a loan under this Act to see to the due application of the moneys loaned, and the misapplication or non-application of such moneys shall not affect the security for the loan. R.S.O. 1927, c. 69, s. 41. Misapplication of funds not to affect security.

**42.** The directors of the association shall be qualified to act as a qualification committee under *The Agricultural Development Act*, and members of an association may make application through the secretary for a long-term loan under *The Agricultural Development Act*. R.S.O. 1927, c. 69, s. 42. Directors qualified to act as qualification committee. Rev. Stat., c. 78.

**43.** The Board shall have general supervision of all associations incorporated hereunder, and all books and records of any association shall be open at all times to inspection and audit by the Board or such other person as may be named by the Lieutenant-Governor in Council. R.S.O. 1927, c. 69, s. 43. Books and records to be open to inspection.

**44.** The moneys received by an association from the share of interest received by it shall be applied,— Application of moneys.

- (a) in payment of the necessary expenses of the association;
- (b) in payment of a dividend on the paid-up stock of not more than six per centum per annum;

- (c) in accumulating a reserve which may, in the discretion of the directors, be invested in the same manner as the capital stock; in the event of the dissolution of any association, any accumulated reserve shall be divided amongst the subscribers in proportion to the amount of the capital stock respectively held by them. R.S.O. 1927, c. 69, s. 44.

Application to secretary for information regarding a borrower.

**45.** Any person dealing with a borrower or a person believed to be a borrower from any association, and proposing to sell goods on credit or to lend money or make advances to such person, may apply to the secretary of the association for information as to the advances which have been made or authorized to such person and the purposes thereof, and the secretary, on being satisfied of the *bona fides* of such request, shall furnish any information shown on the records of the association at the date of such request. R.S.O. 1927, c. 69, s. 45.

Meetings.

**46.** The directors shall hold one or more meetings in each of the months of March and April, in every year, for the consideration of applications for loans, and shall hold such further meetings as may be required from time to time on the call of the president or on the written request of any three members of the board delivered to the secretary, and the directors shall also hold one or more meetings in the month of January, in each year, for the consideration of loans, if any, on which the full amount has not been paid prior to the 31st day of December preceding. R.S.O. 1927, c. 69, s. 46.

Regulations.

**47.** The Lieutenant-Governor in Council may make regulations for the better carrying out of this Act, and such regulations shall have the same force and effect as this Act. R.S.O. 1927, c. 69, s. 47.

#### SECURING CAPITAL FOR ASSOCIATIONS.

Provincial Treasurer may loan money to associations.

**48.** The Treasurer of Ontario may, with the approval of the Lieutenant-Governor in Council, lend money to any such association for the purpose of assisting it to carry on its business on such terms as to interest, repayment and security as may be agreed upon. R.S.O. 1927, c. 69, s. 48.

Agreements of Minister with banks, etc., to secure money.

**49.** The Minister may, with the approval of the Lieutenant-Governor in Council, enter into agreements and guarantees with banks, loan companies or other corporations for securing moneys for the purposes of associations incorporated under this Act, and may make provision for such rates of interest and conditions of repayment as may seem proper. R.S.O. 1927, c. 69, s. 49.

## CHAPTER 80.

## The Agricultural Associations Act.

## 1. In this Act,

Interpreta-  
tion.

(a) "Association" shall mean any one of the organizations referred to in sections 2 and 20. "Association."

(b) "Minister" shall mean the Minister of Agriculture. "Minister."  
R.S.O. 1927, c. 70, s. 1.

2. The following associations, societies and organizations shall be, or continue to be, bodies corporate under the provisions of this Act:—

Certain  
bodies  
declared  
to  
be corpora-  
tions.

The Fruit Growers' Association of Ontario.  
The Entomological Society of Ontario.  
The Dairymen's Association of Eastern Ontario.  
The Dairymen's Association of Western Ontario.  
The Ontario Poultry Association.  
The Eastern Ontario Poultry Association.  
The Ontario Bee-keepers' Association.  
The Ontario Agricultural and Experimental Union.  
The Dominion Sheep Breeders' Association.  
The Dominion Swine Breeders' Association.  
The Dominion Cattle Breeders' Association.  
The Canadian Horsemen's Association.  
The Ontario Horse Breeders' Association.  
The Ontario Vegetable Growers' Association.  
The Gardeners' and Florists' Association.  
The Ontario Corn Growers' Association.  
The Ontario Plowmen's Association.  
The Ontario Swine Breeders' Association.

and such other associations, societies, institutes, or organizations as may be designated by the Lieutenant-Governor in Council. R.S.O. 1927, c. 70, s. 2; 1931, c. 19, s. 2; 1937, c. 72, s. 4.

3. The membership of each association shall consist of annual subscribers, and the membership fee shall be fixed by by-law. R.S.O. 1927, c. 70, s. 3. Membership.

Constitution  
and by-laws.

4. Each association shall have a constitution and by-laws, under which the association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same shall have force or effect. R.S.O. 1927, c. 70, s. 4.

Annual  
meeting.

5. Each association shall hold an annual meeting at such time and place as may be determined by by-law. R.S.O. 1927, c. 70, s. 5.

Election of  
directors.

6. Each association, at its annual meeting, shall elect a board of directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. R.S.O. 1927, c. 70, s. 6.

Non-  
members,  
election of.

7. The members may elect as director a person not a member of the association, but the person so elected must, within ten days, become a member, and he shall be entitled to act as director only after he has become a member of the association. R.S.O. 1927, c. 70, s. 7.

Statements  
at annual  
meeting.

8. At each annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the association, and a detailed statement of the receipts and expenditure for the previous year, and of the assets and liabilities, duly audited, and a copy of the report, and of each of the statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each association as the association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. R.S.O. 1927, c. 70, s. 8.

President  
and vice-  
president.

Secretary-  
treasurer.

9.—(1) The directors shall, from among themselves, elect a president and one or more vice-presidents, and shall also from among themselves or otherwise elect a secretary and a treasurer or a secretary-treasurer.

Quorum.

(2) Except as otherwise provided for, a majority of the directors of the association shall form a quorum. R.S.O. 1927, c. 70, s. 9.

Powers of  
directors.

10. The directors shall have full power to act for and on behalf of the association, and all grants of money and other funds of the association shall be received and expended under their direction, subject to the by-laws and regulations of the association. R.S.O. 1927, c. 70, s. 10.



## AUDIT OF ACCOUNTS.

**11.** The Minister may appoint a person who shall audit the accounts of any association, and such auditor shall present a report of the result of his audit to the officers of the association, and also to the Minister. R.S.O. 1927, c. 70, s. 11.

Auditing of  
accounts.

## GENERAL PROVISIONS AS TO ELECTIONS.

**12.** The members of the association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting shall be qualified to vote at the annual meeting for the election of directors. R.S.O. 1927, c. 70, s. 12.

Right of  
voting.

**13.** Except as otherwise provided, a vacancy occurring by the death or resignation, or failure to qualify as member, of any officer or director may be filled by the remaining officers of the association, and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but, in the event of the remaining officers being insufficient to form a quorum, or, if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in section 14. R.S.O. 1927, c. 70, s. 13.

Vacancies in  
offices.

**14.—(1)** In the event of an election of any directors of an association not being held at the time or place directed by by-law or being for any reason illegal and void, the persons in office at the time when such officers or directors should have been elected shall continue to be the officers of the association until their successors are legally appointed.

Continuance  
in office.

(2) In the event of any such non-election or illegal election, a special meeting of the members of the association shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of the association. R.S.O. 1927, c. 70, s. 14.

Failure to  
elect—  
special  
meeting.

## MEETING OF DIRECTORS.

**15.** A special meeting of the directors of any association organized under this Act may be called by the president thereof, or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president

Special  
meeting of  
directors.

and vice-president, by any three members of the association, of which meeting at least seven days' notice shall be given to each member. R.S.O. 1927, c. 70, s. 15.

#### SECURITY BY TREASURER.

Security by  
treasurer.

**16.**—(1) The treasurer of every association before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, or otherwise, as the board of directors may deem necessary, for the faithful performance of his duties and especially for the due accounting for and paying over all money which may come into his hands.

Duty of  
board as to  
security.

(2) It shall be the duty of the board in each and every year to inquire into the sufficiency of the security given by the treasurer and to report thereon, and where the same treasurer for any association is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the association for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto.

Personal  
responsibil-  
ity of officers  
for loss.

(3) If the officers of an association neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the association in the possession of the treasurer. R.S.O. 1927, c. 70, s. 16.

Legislative  
grant.

**17.**—(1) Every association shall be entitled to receive annually out of any moneys appropriated by the Legislature for that purpose a specified sum on the following conditions:—

- (a) that the number of *bona fide* members is at least fifty;
- (b) that the secretary of the association shall, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) that the general provisions of this Act applying to the associations have been complied with;
- (d) that none of the funds of the association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the association. R.S.O. 1927, c. 70, s. 17.

(2) The municipal council of any city, town, village, county or township in Ontario may grant or loan money or grant land in aid of any agricultural association formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality when such association has made returns to the Minister as required by this Act, provided always that the total amount or value of the money or land heretofore or hereafter granted or loaned by any municipality to an agricultural association under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town and \$1,000 in the case of a village. 1931, c. 19, s. 3.

Grants from  
municipal  
councils.

**18.** If an association ceases for twelve consecutive months to do business as required by this Act and by its constitution, by-laws and rules, or if the Minister is satisfied, after an enquiry at which the association was given due notice to appear, that the business of the association is not being properly conducted, the Minister may declare the corporate powers of the association forfeited. R.S.O. 1927, c. 70, s. 18.

Forfeiture of  
powers for  
non-user.

#### WINTER FAIRS.

**19.—**(1) The Ontario Horticultural Exhibition, the Ontario Provincial Winter Fair, the Ottawa Winter Fair, the Peninsular Winter Fair and such other organizations as may hereafter be designated by the Lieutenant-Governor in Council, shall be corporate bodies under this Act with power to acquire and hold land as a site for fairs and exhibitions, to sell, mortgage, lease or otherwise dispose of the same or any other property held by such body, and the Lieutenant-Governor in Council may prescribe such constitution, rules and regulations as are deemed necessary.

Certain  
fairs and  
exhibitions  
incorporated.

(2) Subsection 1 shall have effect as from the 1st day of January, 1909. R.S.O. 1927, c. 70, s. 19.

Sub. 1.  
retroactive.

#### INCORPORATION OF OTHER ASSOCIATIONS.

**20.—**(1) Upon the petition of any association or society not subject to the provisions of this Act, but formed for the purpose of advancing the interests of any branch of agriculture, being presented to the Lieutenant-Governor in Council, the Lieutenant-Governor may, by Order-in-Council, declare that this Act shall apply to the association or society so petitioning, and thereafter this Act shall apply to such

Admission  
of other  
societies.

association or society in the same manner and to the same extent as if it had been incorporated under this Act.

Publication  
of Order-in-  
Council.

(2) Every such Order-in-Council shall be published in the *Ontario Gazette* for two weeks following the date of its passing. R.S.O. 1927, c. 70, s. 20.

#### ADVISORY BOARD.

Advisory  
board for  
live stock.

**21.**—(1) An advisory board for live stock may be formed to advise the Minister regarding matters of interest to the live stock industry.

Board,  
powers and  
duties of.

(2) The Lieutenant-Governor may by Order-in-Council direct how the board shall be constituted, and may prescribe the duties and powers of the board.

Allowances  
for expenses.

(3) Members of the advisory board shall receive an allowance for their time and for their necessary travelling expenses in attending meetings of the board, or a committee of the board. R.S.O. 1927, c. 70, s. 21.

#### FARMERS' AND WOMEN'S INSTITUTES.

Farmers' and  
women's  
institutes.

**22.**—(1) The formation of boards of agriculture, farmers' institutes and of women's institutes, for the purpose of disseminating information in regard to agriculture, and of improving domestic life, shall be permitted under this Act, and the same shall constitute associations under this Act.

Rules and  
regulations.

(2) The Lieutenant-Governor in Council may, upon recommendation of the Minister, make rules and regulations providing for the number and location of the boards of agriculture, farmers' institutes and women's institutes, for the general guidance and direction of the same, and fixing the grants, and conditions upon which the grants are to be paid. R.S.O. 1927, c. 70, s. 22.

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## CHAPTER 81

## The Agricultural Societies Act.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Department" shall mean Department of Agriculture; "Department."
- (b) "Minister" shall mean Minister of Agriculture for the Province of Ontario; "Minister."
- (c) "Society" or "Societies" shall mean any agricultural society or societies formed under this Act or *The Agricultural and Arts Act*, or under any former Agricultural and Arts Act; "Society." R.S.O. 1897, c. 43.
- (d) "Superintendent" shall mean Superintendent of Agricultural Societies. "Superintendent." R.S.O. 1927, c. 71, s. 1.

2. The Minister may decide all matters of doubt or dispute as to the working or construction of this Act, and his decision shall be final, except that an appeal therefrom may be made to the Lieutenant-Governor in Council. Powers of Minister. R.S.O. 1927, c. 71, s. 2.

3. The Minister may appoint a person to inspect the books and accounts of any society receiving Government aid under this Act, and may empower such person to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to such inspection, and all officers of any such society, whenever required so to do, shall submit the books and accounts thereof to such inspection, and shall truly, to the best of their knowledge, answer all questions put to them in relation thereto, or to the funds of such society. Inspection. R.S.O. 1927, c. 71, s. 3.

4.—(1) Subject to the provisions of the following subsections a society may be organized in any section of Ontario. Where permissible.

(2) A society shall not be organized within twenty miles of an existing society organized under this Act or under *The Agricultural and Arts Act*, being chapter 43 of *The Re-* Limitation as to distance from nearest society.

*vised Statutes of Ontario, 1897*, or under any former Agriculture and Arts Act, unless the physical or other natural conditions of the adjoining country are such that the formation of such society will not injuriously affect the nearest adjoining society.

Application for permission to organize within 20 miles of another society.

(3) An application for permission to organize a new society at a specified point that is within twenty miles of the headquarters of an existing society, shall be made in writing to the Minister, and shall set forth clearly and fully the facts of the situation, and shall be signed by at least sixty of the persons desirous of forming such society, except in provisional judicial districts or unorganized counties, where the number shall be at least forty.

Consent of older society.

(4) Upon receipt of such application the Minister shall instruct the Superintendent to confer with and, if necessary, to call a special meeting of the officers of the existing society whose headquarters are at the point nearest to the point at which it is proposed to form a new society, at which meeting such officers, by resolution, shall declare themselves as being in favour of or opposed to the granting of the application.

Permission.

(5) Should the resolution be in favour of granting the application, the Lieutenant-Governor in Council may grant permission for the formation of the society.

Arbitration.

(6) Where the granting of the application is opposed, the Superintendent shall call upon the existing society and upon the petitioners each to appoint one arbitrator, and the two arbitrators shall appoint a third arbitrator, and the three arbitrators shall consider the granting of the application, and they or a majority of them shall make a recommendation thereon to the Minister.

When Minister may decide.

(7) If either the signers of the petition or the officers of the existing society refuse to appoint an arbitrator, the Minister may grant or refuse the application, as he may deem best.

Deposit to cover expenses.

(8) The parties concerned in all such disputes shall deposit with the Department such money as may be required to pay all expenses connected therewith, such payment to be made according to the decision of the arbitrators, or a majority of them. R.S.O. 1927, c. 71, s. 4.

Mode of organization.

5. The mode of organization shall be as follows,—

- (a) A declaration (Form 1) shall be signed by persons residing within ten miles of the point designated as the headquarters of the society desiring to organize a society under this Act, provided that the number of such persons shall be at least sixty, except in the case of societies organized in provisional judicial districts and unorganized counties, where the number shall be at least forty. Declaration of membership.
- (b) No person shall be considered a member of any society for any year unless he shall have paid at least \$1 into the funds of that society as membership fee for that year. Qualification of members.
- (c) Subject to the by-laws of the society, a firm, or an incorporated company may become a member of any society incorporated under this Act by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall as such exercise the privileges of membership in the society. Firms and companies may be members.
- (d) Within one month after the membership fees of the signers thereof have been paid the declaration with the names and addresses of the signers, shall be transmitted to the Minister, who shall thereupon authorize a person to call the first meeting for the organization of the society. Transmitting declaration to Minister.
- (e) The first meeting of the society shall be held between the 15th and the 21st days inclusive of January next ensuing, at the point designated as the headquarters of the society, of which meeting at least two weeks' public notice shall be given by advertisement in one or more newspapers published in the county or district, and also by printed placards or bills posted in local places of common resort. First meeting.
- (f) At the first meeting there shall be elected a president, a first vice-president, a second vice-president, and not more than nine other directors, who shall be duly qualified members of the society, or who must become so within fourteen days after their election, and who together shall form the board of directors, a majority of which board shall reside within ten miles of the place designated as the headquarters of the society. Election of officers.

Auditors.

(g) At the first meeting the society shall appoint two auditors for the ensuing year.

Secretary  
and  
treasurer.

(h) The board, from among themselves, or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and shall, by virtue of his office, be a member of each committee appointed, and may be given the powers of managing-director acting under the control and with the approval of the board of directors.

Executive  
committee.

(i) The board, from among themselves, may appoint an executive committee of not more than five members to perform such duties as the board by resolution may specify.

Transmission of  
report of  
organization  
meeting.

(j) A report of the organization meeting, certified by the president, the secretary and the convener, and containing a statement of the number of members and a list of the officers elected and appointed, shall be sent to the Department within one week after the holding of the meeting. R.S.O. 1927, c. 71, s. 5.

Status of  
society and  
name.

**6.—**(1) Upon the receipt of such report the society so organized shall be deemed an agricultural society, within the meaning of this Act, and shall bear the name designated in the declaration as the headquarters of the society, or such name as may be determined by the members and approved by the Minister.

Change of  
name.

(2) In case of a dispute as to the name of any society; or in any case where in the opinion of the Minister, the name of the society prejudicially affects the interests of another society he may change the name of any society.

Head-  
quarters of  
society.

(3) For the purpose of this Act, the headquarters of a society shall be the place at which the society held its last annual exhibition, or which it has designated by by-law or resolution, at a meeting duly called for the purpose, as its headquarters or place of holding its exhibition, a certified copy of which by-law or resolution shall be forwarded to the Department and the society shall thereafter be designated by the name of such place, or by such name as may be determined by the members and approved by the Minister. R.S.O. 1927, c. 71, s. 6.

Directors.

**7.—**(1) The Minister may authorize the society to elect at



its first or at any subsequent meeting not more than six persons as directors, in addition to those hereinbefore provided for.

(2) A society may appoint not more than six honorary directors, but such directors shall not have the right to vote or take part in meetings of the board of directors. <sup>Honorary directors.</sup> R.S.O. 1927, c. 71, s. 7.

8. Upon the recommendation of the Superintendent, the Minister may authorize any society to elect six directors in <sup>Election of additional directors.</sup> addition to those already provided for. R.S.O. 1927, c. 71, s. 8.

9. At the first meeting, and at any subsequent meeting <sup>Quorum.</sup> of any society, ten members shall form a quorum. R.S.O. 1927, c. 71, s. 9.

10.—(1) The object of a society shall be to promote improvement in agriculture, horticulture, arboriculture, domestic industry, manufactures and the useful arts,— <sup>Objects of societies.</sup>

- (a) by awarding premiums for live stock, other than grade breeding males, for agriculture or horticultural implements and machinery, for the production of grain and of all kinds of vegetables, plants, flowers, fruits, home manufactures, and generally for excellence in any agricultural or horticultural production or operation, article of manufacture or work of art;
- (b) by organizing plowing matches, holding seed fairs, spring stallion and bull shows, competitions respecting standing crops, and for the best or best managed farms;
- (c) by owning or distributing pure bred registered animals, and seeds and plants of new and of valuable kinds;
- (d) by promoting the circulation of agricultural periodicals;
- (e) by offering prizes for essays on questions of scientific inquiry relating to agriculture, horticulture, domestic industries, manufactures and the useful arts; and
- (f) by taking action to eradicate poisonous and noxious insects and weeds.

Unauthor-  
ized  
expenditure  
to forfeit  
grant.

(2) A society which expends any of its funds for any purpose inconsistent with those herein mentioned shall forfeit all claim to participate in the legislative grant. R.S.O. 1927, c. 71, s. 10.

Annual  
meeting.

**11.—(1)** The annual meeting of each society shall be held on or after the 1st day, and not later than the 21st day of January in each year at the headquarters of the society and at an hour to be fixed by the directors of the society.

Who may  
vote.

(2) At any such meeting only those members who have paid the subscription for the ensuing year shall be entitled to vote.

Notice of  
meetings.

(3) At least two weeks' previous notice of any such meeting shall be given by advertisement in one or more newspapers published in the municipality or municipalities in which the society is organized, and also by printed placards or bills posted in places of common resort, or by sending such notice by registered post, mailed to the last known post office address of each member of the society in good standing such notices to be mailed at least one week previous to, and to state the time and the place of the meeting.

When meet-  
ing not held  
at appointed  
time.

(4) In case a society shall, through any cause, fail to hold its annual meeting at the time appointed, the Minister, on petition of the president and secretary, may appoint a time for holding the same before the 1st day of March in the same year, the meeting to be called as for the regular annual meeting, and this meeting shall be taken for all purposes as the annual meeting of the society.

Forfeiture  
of grant if  
meeting  
not held.

(5) In the event of the annual meeting not being held as provided for in this Act, or in the event of the number of members on the 1st day of September in any year being less than the number required for organization, the society shall have no further claim to participate in the legislative grant, and shall be deemed to have been dissolved; but the directors elected at the last properly constituted meeting of the society prior to the 1st day of September shall be the trustees of the assets of the society until the same are disposed of by the order of the Minister.

Reorganiza-  
tion.

(6) Where a society is dissolved or ceases to exist it shall be reorganized only by proceeding under section 5, and in accordance with section 4.

Disposal of  
surplus  
assets.

(7) Upon being notified or becoming aware of the dissolution of any society under the provisions of the preceding

subsections the Minister may order the directors to deliver over to the Department the assets, if any, remaining after all just debts have been paid. R.S.O. 1927, c. 71, s. 11.

**12.** In addition to any other business the following business shall be transacted at the annual meeting:— Business at annual meeting.

- (a) The board of directors shall present at such meeting a report of their proceedings for the past calendar year, in which shall be stated the names of all the members of the society, the amount paid by each being set opposite to his name, the amount offered and also the amount awarded in prizes for each kind of live stock, agricultural products, implements, domestic products or other objects respectively, and the number of entries in each class, together with such remarks and suggestions upon the agriculture and horticulture of the district, and the arts and manufactures therein as they are enabled to offer. Report of directors.
- (b) The board of directors shall present a detailed statement of the receipts and expenditures for the preceding year, also a statement of the assets and liabilities of the society at the end of the year, certified to by the auditors. Statements of receipts and expenditures.
- (c) The officers and other directors specified in clause f of section 5, qualified as therein provided, shall be elected by the members, and auditors shall be appointed for the ensuing year. R.S.O. 1927, c. 71, s. 12. Election of officers.

**13.** The reports shall, if approved by the meeting, be placed on record in the books of the society, and shall also be sent within one month to the Department, and the Minister may require all such reports to be made out on schedules to be supplied by the Department in such form as he may direct, and failure to comply with such requirements shall be sufficient to forfeit all claim on the part of the society to participate in the legislative grant. R.S.O. 1927, c. 71, s. 13. Transmission of reports to Department.

**14.**—(1) The members of each society may, at an annual meeting or at a special meeting, of which two weeks' previous notice has been given by advertisement in the manner required by subsection 3 of section 11 make, alter and repeal by-laws and regulations for the general management of the society, but subject to such by-laws and regulations, the By-laws and regulations.

board of directors shall have full power to act for and on behalf of the society, and all grants and other funds of the society shall be received and expended under their direction.

Special meetings.

(2) On petition of thirty members of any society, the secretary shall call a special meeting for the consideration of such matters as may be set forth in the petition, and the meeting shall be advertised in the manner prescribed by subsection 3 of section 11, and the advertisements shall state the nature of the business to be transacted. R.S.O. 1927, c. 71, s. 14.

Meetings of board of directors.

**15.** The first meeting of the board of directors of a society may be held upon the day of the annual meeting, and the subsequent meetings shall be held pursuant to adjournment, or be called by written notice given by authority of the president, or, in his absence, of the first vice-president, or in the absence or on the neglect of the president and first vice-president, then on the written request of any three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum. R.S.O. 1927, c. 71, s. 15.

Incorporation and power to hold land.

**16.—(1)** Every society shall be a body corporate, with power to acquire and hold land as a site or as an enlargement of an existing site and the society shall have and may exercise the like powers as to lands required for the enlargement of an existing site as in the case of lands required for the original site, and subsection 3 shall apply thereto, for fairs and exhibitions, and, subject to the approval of a meeting of the society called for the purpose, to sell, mortgage, lease, or otherwise dispose of the same, or any other property held by such society.

Notice of meetings to consider disposition of property.

(2) At least two weeks' previous notice of such meeting shall be given by advertisement in one or more newspapers published in the county or district and by printed placard and at such meeting only those persons shall be entitled to vote who are members for the current year and who were members for the two previous years.

Acquiring site; arbitration to fix price.

(3) (a) If the owner of the land selected as a site for fairs and exhibitions, approved of at a meeting of the society called for that purpose, refuses to sell the same or demands therefor a price deemed unreasonable by the board of directors, then such owner and such board of directors shall each forthwith appoint an arbitrator, and the arbitrators so chosen shall appoint a third arbitrator, and such arbitrators or a majority of them shall determine the value of such land.



(b) If the directors or the owner of such land neglect or refuse to appoint an arbitrator, the senior judge of the county or district court of the county or district in which the land lies may, on the application of the party who has so appointed an arbitrator and on notice to the opposite party, appoint an arbitrator on behalf of the party so neglecting or refusing to appoint an arbitrator.

Appointment  
of arbitrator  
by county  
judge.

(c) If the arbitrators appointed as aforesaid fail to agree on, or either of them refuse to appoint a third arbitrator, the senior judge of the county or district court of the county or district in which the land lies may, on the application of one or other of the said arbitrators and on notice to the other, appoint a third arbitrator.

Third  
arbitrator—  
appointment  
by county  
judge.

(d) The arbitrators so chosen shall have the power to hear and determine all claims or rights of encumbrancers, lessees, tenants or other persons as well as those of the owner of the land required for the purpose of such site upon notice in writing to every such claimant or person.

Powers of  
arbitrators.

(e) Upon payment by the directors of the amount determined by a majority of the arbitrators appointed as aforesaid, to the owner or other persons entitled thereto, the land may be taken and used for the purposes aforesaid.

Payment of  
compensa-  
tion.

(f) Any award for a site for fairs and exhibitions made and published under this Act, if there be no conveyance, shall be deemed thereafter to be the title of the society to the land mentioned in it, and shall be a good title thereto against all persons interested in the land in any manner whatever, and shall be registered in the proper registry office, on the affidavit of the secretary and treasurer or secretary-treasurer of the directors verifying the same.

Effect of  
award.

(g) The parties concerned in all such disputes shall pay all the expenses incurred in regard to them, according to the award or decision of the arbitartors or a majority of them.

Expenses of  
arbitration.

(4) The provisions of subsection 3 shall be applicable only by consent of the Lieutenant-Governor in Council. R.S.O. 1927, c. 71, s. 16.

Consent of  
Lieutenant-  
Governor in  
Council.

**17.** Any township society and town or village municipality that had, prior to the 4th day of March, 1868, jointly purchased and held any land or buildings for the purpose of agricultural fairs or exhibitions, may continue jointly to hold such land or buildings, or may sell, mortgage, lease or otherwise dispose of the same, subject to the approval of a meeting

Joint  
ownership  
of lands  
with  
municipality.

of the society as provided in section 16. R.S.O. 1927, c. 71, s. 17.

Dissolution  
of union  
societies.

**18.** Where two or more municipalities have been united under the provisions of *The Agriculture and Arts Act*, R.S.O. 1897, c. 43, or any former Agriculture and Arts Act to form a township society, a dissolution of such union society may be effected in the following manner: a petition requesting a dissolution and the organization of new societies shall be signed by a majority of the members residing in any one of the municipalities and shall be forwarded to the Minister, and if the number so signing is equal to the number required for the organization of a new society, as provided by section 5, the Minister shall direct that new societies shall be organized in the manner prescribed in that section, and the former union society shall thereupon become dissolved and cease to exist. R.S.O. 1927, c. 71, s. 18.

Disposition  
of assets on  
dissolution.

**19.** On the dissolution of a union society the assets of the society shall be equitably apportioned or divided by arbitrators, or a majority of them, one to be appointed by the board of directors of each of the new societies, and another arbitrator to be chosen by the arbitrators so appointed, or in the event of the arbitrators failing to choose such arbitrator within ten days after being appointed, then the senior judge of the county or district court having jurisdiction in the county or district shall appoint such arbitrator. R.S.O. 1927, c. 71, s. 19.

Annual  
returns to  
Department.

**20.**—(1) On or before the 1st day of March of each year, the officers of every society shall send to the Department an affidavit (Form 2) stating on forms to be provided by the Department, the exact financial transactions of the society during the previous year, and this statement shall set forth plainly the number of members of the society in good standing, the amount of money paid in prizes for horses, cattle, sheep, swine, poultry, articles of domestic manufacture, other products of the farm, orchard and garden and for such other purposes as are set forth in section 10, and such money shall be considered to have been expended for agricultural purposes.

Statement  
of expenses.

(2) In the case of societies holding a spring stallion show, a spring bull show, a combined spring stallion and bull show, or a spring seed fair, the officers of such societies shall send to the Department on a separate form to be provided by the Department, within thirty days after the holding of such spring show or fair, an itemized statement showing the receipts and expenditures in connection therewith, together with the number of entries.

(3) Any society failing to send in the statement within the prescribed time shall forfeit all claim to share in the legislative grant for the current year. R.S.O. 1927, c. 71, s. 20.

Consequences of failure to send returns.

**21.** Every society shall be entitled to receive a grant out of the unappropriated money in the hands of the Treasurer of Ontario, to be paid on the recommendation of the Department, on condition:—

Grants out of Provincial funds.

- (a) that the number of paid-up members for the current year is not less than sixty, except in the case of societies organized in provisional judicial districts or unorganized counties, where the number of paid-up members must not be less than forty;
- (b) that all reports and returns required by this Act have been made to the satisfaction of the Minister;
- (c) that the annual meeting has been held as required and officers elected, in accordance with section 12;
- (d) that the objects of the society as prescribed by section 10, have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with these objects. R.S.O. 1927, c. 71, s. 21.

**22.—**(1) Such amounts as may be voted by this Legislature shall be paid to the societies on the following basis:

Division of Provincial grant.

- (a) A society that has owned and maintained pure bred stock, for the benefit of its members, for a period of at least nine months during the next preceding year, shall receive a grant of \$50 for every registered stallion, \$20 for every registered bull, \$10 for every registered boar and \$5 for every registered ram so owned, and in the event of a society devoting its funds solely for the maintenance of pure bred stock, such society shall receive a special membership grant of \$1 for every member of the society in good standing, up to fifty.
- (b) A newly organized society, during the first three years of its existence, shall receive a grant each year equal to \$1 per member up to three hundred members. R.S.O. 1927, c. 71, s. 22 (1), cls. (a), (b).

Distribution  
of  
provincial  
grant.

- (c) The remainder of the grant voted for agricultural societies shall be divided among societies other than new societies, in proportion to the amount they expended during the next preceding three years for agricultural purposes, as shown by their sworn statements, and as defined by section 20, and there shall not be included in such expenditure money used for the purchase or maintenance of pure bred stock, for the holding of spring stallion shows, spring bull shows, or combined spring stallion and bull shows, or for spring seed fairs. 1935, c. 66, s. 2.
- (d) Societies in provisional judicial districts and unorganized counties shall be entitled to receive their grants on the basis of double their actual expenditure for agricultural purposes.
- (e) A society shall not be entitled to receive a total grant exceeding \$800;
- (f) A society that holds a spring stallion show, a spring bull show, or a combined spring stallion and bull show shall receive a grant not exceeding \$50, equal to one-half the sum expended in the holding of such show.
- (g) A society that holds a spring seed fair shall receive a grant not exceeding \$25, equal to one-half the sum expended in the holding of such fair.
- (h) Should it be found, within one year after the receipt by the Department of a society's annual statement, that an officer of the society has wilfully made false returns with an intention to deceive, such officer shall incur a penalty not exceeding \$100, recoverable under *The Summary Convictions Act*, or be liable to imprisonment for a period not exceeding thirty days. R.S.O. 1927, c. 71, s. 22 (1), cls. (d-h).

Rev. Stat.,  
c. 136.

Allowance  
where gate  
receipts  
reduced by  
weather.

- (2) If the Superintendent, on or before the 31st day of October in any year, receives proof by the joint affidavit of the president, secretary and treasurer of an agricultural society that rain or snow has fallen at the place of holding an exhibition before three o'clock in the afternoon on any day during which such exhibition was held, or if during such exhibition or within thirty days previous to same, one or more buildings on the exhibition grounds have been destroyed by fire or storm, and upon the Superintendent being satisfied that as a consequence of such weather or fire condi-



tions the gate receipts were less than the average of three previous normal years of holding the exhibition, such society shall be entitled to receive a grant from the fund provided therefor equal to ninety per centum of the difference between the gate receipts of the current year and the average of the gate receipts of three previous normal years, but the amount to be paid to any one society shall not exceed \$500 and the total amount so paid to all societies shall not exceed \$10,000.

(3) In the event of a society which has been organized for only two years suffering loss in gate receipts owing to wet weather, it shall be entitled to receive a grant equal to seventy-five per centum of the difference between the gate receipts of the current year and those of the previous year, and in case of loss of gate receipts from the above cause during the third year of a society's existence, the grant shall be seventy-five per centum of the difference between the gate receipts of that year and those of the average of the two previous years, but the amount to be paid shall not exceed \$500. R.S.O. 1927, c. 71, s. 22 (2, 3).

Grant where gate receipts reduced owing to wet weather.

**23.** Out of any unappropriated money in the hands of the Treasurer of Ontario a further sum not exceeding \$5,000 shall be subject to division among The Canadian National Exhibition Association of Toronto, The Central Canada Exhibition Association of Ottawa, and The Western Fair Association of London, in proportion to the amount of money expended for agricultural purposes as set forth in section 10, provided that not more than \$2,500 be paid to any one society, upon condition that

Special aid from Province to certain exhibitions.

- (a) returns similar to those prescribed by sections 12 and 20 have been made to the Minister;
- (b) the provisions of section 30 have been strictly adhered to or enforced in connection with the exhibition held by the society in the last preceding year. R.S.O. 1927, c. 71, s. 23.

**24.**—(1) Horse racing other than trials of speed under the control and regulation of the officers of the society shall not be carried on during the days appointed for holding any exhibition by any society at the place of holding the exhibition or within five miles thereof.

Horse racing prohibited.

(2) Any person who is guilty of a violation of this section shall be liable to a fine not exceeding \$50, recoverable under *The Summary Convictions Act.* •

Penalty. Rev. Stat., c. 136.

Society to  
forfeit  
grant.

(3) If any person is convicted under this section, the society proven to have permitted horse racing shall be debarred from receiving any portion of the legislative grant in the next ensuing year.

Who may  
lay  
information.

(4) Prosecutions under this section may be made only upon the information being laid by a person who is a member of the society for the current year and who also was a member of the society in the previous year. R.S.O. 1927, c. 71, s. 24.

Exhibitions.

**25.**—(1) The exhibition of any society shall be held at the place designated as the headquarters of the society.

Changing  
headquarters  
of society.

(2) When the members of any society have by by-law or resolution fixed upon a place as the headquarters of the society, or upon any place for holding the exhibition of such society for any year, the place so designated shall not be changed to any place within twenty miles of the headquarters of another society, but it may be changed to any place not within such radius upon the decision of a majority of the qualified voters as follows:—

- (a) A special meeting shall be called by the board of directors, or by thirty members as provided in subsection 2 of section 14, for the express purpose of considering the question.
- (b) At least two weeks' previous notice of such meeting shall be given by advertisement as prescribed in subsection 3 of section 11.
- (c) Only paid-up members for the current year who were also members in the previous year shall be qualified to vote.
- (d) The meeting shall be called for ten o'clock in the forenoon, and if a poll is demanded it shall be opened at once and remain open until six o'clock, except that it may be closed by the presiding officer of the society if at any time one hour elapses without any vote being polled. R.S.O. 1927, c. 71, s. 25.

Accommoda-  
tion for  
exhibitions.

**26.** The exhibitions of any society shall be held at such place only as shall afford sufficient accommodation for such exhibitions. R.S.O. 1927, c. 71, s. 26.

Power to  
withhold  
prizes when  
fraud shown.

**27.** The board of directors of any society on being made aware of any fraud having been committed by any member or exhibitor in the entry of any stock or goods in competition

for prizes at any exhibition, shall have the power of withholding the payment of any prizes that may have been awarded by the judges to such members or exhibitors on such fraudulent or any other entries made at any such exhibition. R.S.O. 1927, c. 71, s. 27.

#### KEEPING THE PEACE, ETC., AT EXHIBITIONS.

**28.**—(1) Any justice of the peace having jurisdiction in any city, town, village or township, wherein a fair or exhibition is or is to be held, shall, on the request of the president or executive committee of any society, appoint as many policemen or constables, to be named by the society, as may be required. Appointment of constables.

(2) The duty of such policemen and constables shall be, at the expense of the society, to protect the property of such society within the exhibition grounds, and to eject all persons who may be improperly within the grounds, or who may behave in a disorderly manner, or otherwise violate any of the rules or regulations of such society. R.S.O. 1927, c. 71, s. 28. Duty of constables.

**29.** If any person wilfully hinders or obstructs the officers or servants of any society in the execution of their duty, or gains admission to the grounds contrary to the rules of such society, he shall incur a penalty of not less than \$1, nor more than \$20, recoverable under *The Summary Convictions Act*, to be paid over to such society for its use and benefit. R.S.O. 1927, c. 71, s. 29. Interfering with officers. Rev. Stat., c. 136.

**30.**—(1) The officers of a society may by their rules and regulations prohibit and prevent all kinds of theatrical or circus or acrobatic performances, exhibitions or shows, and may also regulate or prevent the huckstering or trafficking in fruits, goods, wares or merchandise on the exhibition grounds, or within three hundred yards thereof, and any person who, after notice of such rules and regulations, violates the same shall be liable to be removed by the officers, policemen or constables of the society and be subject to the penalty prescribed by section 29. Prohibiting certain shows and performances, etc.

(2) The officers of the society shall prevent all immoral or indecent shows and all kinds of gambling and all games of chance, including wheel of fortune, dice games, pools, coin tables, draw lotteries or other illegal games at the place of holding the exhibition or fair, or within three hundred yards thereof, and any association or society permitting the same shall forfeit all claim to any legislative grant during the year next ensuing. Duty as to preventing improper shows.

Gambling  
devices.

(3) The officers of a society shall not allow any person to exhibit either publicly or to any individual any gambling device, or to bring any such gambling device into the buildings or upon the grounds in or upon which the exhibition or fair is being held.

Gambling.

(4) No person shall carry on, or assist or aid in carrying on, any kind of gambling, or any game of chance, at any agricultural, live stock, or industrial exhibition or fair, or within half a mile thereof.

Sale of  
liquor on  
grounds.

(5) It shall not be lawful to sell or to have for sale on any exhibition ground during the time of holding an exhibition, any wine, beer or spirituous liquors, and any society permitting the same shall forfeit all claim to any grant during the next ensuing year.

Penalty.

(6) Every person guilty of a violation of any of the provisions of this section, in addition to any other liability which he may incur thereby, shall incur a penalty of not less than \$100 nor more than \$300 for a first offence, and in default of immediate payment of the penalty, shall be imprisoned for a period of three months unless the penalty or costs are sooner paid, and for every offence committed after conviction for a first offence, shall be liable to imprisonment for a period of six months.

Application  
of section.

(7) This section shall apply to all exhibitions held by any society. R.S.O. 1927, c. 71, s. 30.

Powers of  
Dominion  
and  
Provincial  
Constables.

**31.**—(1) Any Dominion police constable or provincial police constable shall have the right of free entrance to the grounds and to all the buildings on the grounds where a fair or exhibition is being held under the direction of any society, during the time that the fair or exhibition is being held.

Seizing and  
confiscating  
gambling  
devices, etc.

(2) Any constable or other peace officer may, without warning or notice, immediately seize all devices and instruments used by any person in connection with any kind of gambling or games of chance or immoral or indecent side show, and may arrest such person without warrant and take him before the nearest magistrate having jurisdiction, there to be dealt with according to law, and every such device or instrument, after the conviction of the person concerned, shall be destroyed under the direction of the magistrate before whom the case is tried. R.S.O. 1927, c. 71, s. 31.



## GENERAL PROVISIONS AS TO ELECTIONS.

**32.** Every person not under eighteen years of age who has paid the membership subscription for the year then next ensuing to any society, shall have the right of voting at the election of officers, and on all other questions submitted to the annual meetings of such societies. R.S.O. 1927, c. 71, s. 32. Who may vote at meeting.

**33.** No membership subscription for the ensuing year, paid after the president or presiding officer has declared the poll open for the election of officers, shall entitle any member to vote for such officers, nor shall any votes be received earlier than one o'clock in the afternoon nor later than six o'clock in the afternoon of the same day. R.S.O. 1927, c. 71, s. 33. When votes may not be received.

**34.** Except as otherwise provided, a vacancy occurring by the death or resignation of any officer of a society may be filled by the remaining officers thereof, and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if for any reason a quorum cannot be obtained, persons to fill the vacant offices shall be elected in manner provided by the following section. R.S.O. 1927, c. 71, s. 34. Vacancies in offices.

**35.**—(1) In the event of an election of any officers of a society not being held at the time or place herein directed, or being for any reason illegal and void, the persons in office at the time when such officers should have been elected shall continue to be, and shall be deemed to be, the officers of such society until their successors are legally appointed. a Failure to elect.

(2) In the event of any such non-election or illegal election, a special meeting of the members of such society shall be called as soon as practicable for the election of such officers; such meeting to be called in the manner provided in subsection 3 of section 11 by the president, or, in his absence or on his neglect, by the vice-president, or in the absence or on the neglect of the president and vice-president, then by any three members of the society, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of such society. R.S.O. 1927, c. 71, s. 35. Special meetings for elections.

## SPECIAL MEETINGS OF DIRECTORS.

**36.** A special meeting of the directors of any society may be called by the president thereof, or, in his absence or on Special meetings of directors.

his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, then by any three members of such society, of which meeting at least seven days' notice shall be given to each member; and, except as otherwise provided for, a majority of the directors of any society shall be a quorum. R.S.O. 1927, c. 71, s. 36.

Quorum.

#### SECURITY BY TREASURER.

Security by treasurer of society.

**37.**—(1) The treasurer of every society, before entering upon the duties of his office, shall give such security, either by joint or several covenant with one or more sureties, which may be in such form as the board of directors or other managing officers may deem necessary, for the faithful performance of his duties, and especially for the due accounting for and paying over all money which may come into his hands.

Duty of board as to security.

(2) It shall be the duty of the board in each and every year to enquire into the sufficiency of the security given by such treasurer and report thereon, and where the same treasurer for any society is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the society for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto.

Personal responsibility of officers for loss.

(3) If the officers of a society neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the society in the possession of the treasurer. R.S.O. 1927, c. 71, s. 37.

#### MUNICIPAL AID TO SOCIETIES.

Grants from municipal councils.

**38.**—(1) The municipal council of any city, town, village, county or township in Ontario may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act to be made to the Minister, provided always that the total amount or value of the money or land heretofore or hereafter granted or loaned by any municipality to an agricultural society under this section shall not exceed, in the case of a city, \$5,000, in the case of a town, \$2,000, and in the case of a village, \$1,000.

Security for loans from municipalities.

(2) If such grant is a loan of money to enable the society to acquire land, such municipality may hold the land so

acquired or may take a mortgage thereon, as security for the amount of such grant until the amount of such grant be repaid to the municipality, and any such grant heretofore made in accordance with the provisions of this Act shall be legal and valid.

(3) Any of such municipalities owning land or buildings for public purposes shall have the power to make agreements on such terms and for such periods as they may deem expedient with any company formed under the provisions of chapter 196 of the Revised Statutes of Ontario, 1897, or under any enactment that may be substituted therefor, or with any agricultural society for the use of such land or buildings, or either of them, or for the privilege of erecting on said land, subject to such terms as may be agreed on, such buildings as they may require for agricultural and industrial shows, and to give the company the power of renting such grounds and buildings when owned by the company to any agricultural society formed under this Act or any amendment thereto, to and for the purposes of the annual show or shows of the society, and to grant to such company or society the power to collect during such show, or at other times, as may be agreed, from any person wishing to go into or upon any such grounds or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the company or society may deem necessary or expedient.

Agreements  
as to use of  
buildings.

(4) Any of such municipalities may pass by-laws for providing for the erection of buildings on parks, fair grounds or other property belonging to any such municipality, for the joint purposes of the municipality and of any agricultural society, or other body, or trustees for any club or society, upon such agricultural society and other body, or trustees for any club or society contributing to the cost of such building, and in such case, the municipality shall have power to grant leases for a term not exceeding twenty-one years to such agricultural society, incorporated body, or the trustees of any club, providing for the use of such building at such time or times as to such council may seem proper, and upon such terms as may be arranged with the said council, and the powers hereby granted may be exercised in respect of any building erected since the 1st of January, 1919. R.S.O. 1927, c. 71, s. 38.

By-laws for  
common  
use of build-  
ings on  
municipal  
property.

**39.** The property of an agricultural society shall be exempt from taxation other than for local improvements when in actual occupation by the society, or by its tenants if the rent is applied solely for the purposes of the society. R.S.O. 1927, c. 71, s. 39.

Exemption  
from  
taxation.

FORM 1.

(Section 5.)

DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a society, under the provisions of *The Agricultural Societies Act*, to be called the Agricultural Society of (*designating the point that the Department will be asked to recognize as the headquarters of the society*), and we hereby severally agree to pay to the treasurer the sums opposite our respective names; and we further agree to conform to the by-laws and rules of the society.

Names. \$ cts.

R.S.O. 1927, c. 71, Form 1.

FORM 2.

(Section 20.)

AFFIDAVIT AS TO MEMBERSHIP AND PAYMENTS FOR AGRICULTURAL PURPOSES.

County of To Wit: }

I, , of , treasurer of the Agricultural Society of , make oath and say, that during the year ending 31st day of December, 19 , the said Agricultural Society expended the sum of \$ , solely for agricultural purposes, in accordance with the Act, as set forth in the audited financial statement of the society, and that no prizes for horse races or special attractions, and no prize money other than cash is included in the above amount, and that the number of members of the society for 19 is .

Treasurer.

Sworn before me this day of , 19 . }

Justice of the Peace for the County of or a Commissioner for taking affidavits.

EXPENDITURE FOR AGRICULTURAL PURPOSES.

	\$	c.
Prizes paid, Horses, \$ Cattle, \$ Sheep \$		
(Prizes for horses not to include horse races)		
Prizes paid, Pigs, \$ Poultry, \$ Dairy Products, \$		
" " Grain and Seeds		
" " Roots and other hoed crops		
" " Orchard and Garden products		
" " Implements and General Manufactures		
" " Fine Arts, \$ Ladies' Work, \$		
" " All other objects on Exhibition		
Money paid for prizes awarded at previous years		
" " " " " at Plowing Match		
" " " " " for Field Crop Competition		
(Contributed by Society)		
Meetings or Lectures for discussion of Agricultural Subjects		
Agricultural Periodicals		
Purchase of Live Stock		
Purchase of Seed and Plants		
Keep of Stock		
Expenses of Delegates to Fairs and Exhibitions' Convention		
Total Cash Expenditure for Agricultural Purposes		

R.S.O. 1927, c. 71, Form 2.



## CHAPTER 82.

## The Horticultural Societies Act.

## 1. In this Act,

Interpreta-  
tion.

- (a) "Department" shall mean Department of Agriculture; <sup>"Depart-  
ment."</sup>
- (b) "Minister" shall mean Minister of Agriculture for the Province of Ontario; <sup>"Minister."</sup>
- (c) "Society" shall mean any horticultural society organized under this Act or under any former Agriculture and Arts Act; <sup>"Society."</sup>
- (d) "Superintendent" shall mean Superintendent of Horticultural Societies. R.S.O. 1927, c. 72, s. 1. <sup>"Superin-  
tendent."</sup>

2. All horticultural societies organized under *The Agriculture and Arts Act*, being chapter 43 of the Revised Statutes of Ontario, 1897, shall be continued, except in so far as they may be affected by this Act. R.S.O. 1927, c. 72, s. 2. <sup>Societies  
continued.</sup>

3. The Minister may decide all matters of doubt or dispute as to the working or construction of this Act, and his decision shall be final, except that an appeal therefrom may be made to the Lieutenant-Governor in Council. R.S.O. 1927, c. 72, s. 3. <sup>Powers of  
Minister.</sup>

4. The Minister may appoint any person to inspect the books and accounts of any society receiving Government aid, under or by virtue of this Act, and may empower such person to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to such inspection, and all officials of any such society whenever required to do so shall submit the books and accounts thereof to such inspection, and shall truly, to the best of their knowledge, answer all questions put to them in relation thereto, or to the funds of such society. R.S.O. 1927, c. 72, s. 4. <sup>Inspection  
of books and  
accounts.</sup>

## ORGANIZATION.

5.—(1) A society may be organized in any city, town, township or village, and in a police village having a population of not less than 500. <sup>Where  
societies  
may be  
organized.</sup>

Cities of  
100,000  
or over.

(2) Where a city has a population of over 100,000, two societies may be organized; where over 200,000 three societies may be organized; but in such case none of the societies shall be entitled to receive an annual grant of more than \$500. R.S.O. 1927, c. 72, s. 5.

Organiza-  
tion.

**6.** The mode of organization shall be as follows:

Declaration  
of  
membership.

(a) A declaration (Form I) shall be signed by the persons, residents of the municipality in which the society is organized, who desire to organize a society under this Act. In the case of a city having a population of 30,000 or over the number of such persons shall be at least 125; in the case of a city with a population of less than 30,000 the number shall be at least 75. Societies organized in towns having a population of 2,000 or over shall have at least 60 members, and in the case of a village or police village the number shall be at least 50, and in the case of a township 25 members.

Qualification  
of members.

(b) No person shall be considered a member of any society for any year unless he shall have paid at least \$1 into the funds of that society as membership fee for that year.

Firms and  
companies.

(c) Subject to the by-laws of the society, a firm or an incorporated company may become a member of any society organized under this Act, or any former Agriculture and Arts Act, by the payment of the regular fee, but the name of one person only, in any one year, shall be entered as the representative or agent of any firm or company, and that person only shall exercise the privileges of membership in the society or organization.

Transmitting  
declaration  
to Minister.

(d) Within one month after the money has been so paid the declaration, with the names and addresses of the signers of same, shall be transmitted to the Minister, who shall thereupon instruct the Superintendent to authorize a person to call the first meeting for the organization of the society.

First  
meeting.

When  
meeting to  
be held.

(e) The first meeting of the society shall be held between the 8th and 14th days, inclusive, of April next ensuing, of which meeting at least two weeks' public notice shall be given by advertising in one or more newspapers published in the district.

- (f) At the first meeting, and at any subsequent meetings, of any horticultural society, ten members shall constitute a quorum. Quorum.
- (g) At the first meeting there shall be elected a president, a first vice-president, a second vice-president, and not more than ten other directors, five to be elected for two years and five for one year, and thereafter five annually for two years all of whom shall be members of the society in good standing, or become so within fourteen days after their election, who together shall form the board of directors, a majority of which board shall reside in the municipality in which the society is organized. Election of first officers.
- (h) At the first meeting the society shall appoint two auditors for the ensuing year. Auditors.
- (i) The board of directors from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or the secretary-treasurer, by virtue of his office, shall be a member of each committee appointed and may be given the power of managing director, acting under the control and with the approval of the board of directors. Secretary-Treasurer.
- (j) A report of the organization meeting, certified by the president, the first vice-president, the second vice-president, the secretary and the convener, and containing a statement of the number of members and a list of the officers elected and appointed, shall be sent to the Department within one week after the holding of the meeting. R.S.O. 1927, c. 72, s. 6. Transmission of report to Department.

7. Upon the receipt of such report the society so organized shall be deemed a horticultural society, and each society so organized shall be entitled to participate in the legislative grant hereinafter provided, and to enjoy all the privileges granted by this Act. R.S.O. 1927, c. 72, s. 7. Status of society.

8.—(1) The objects of a society shall be to encourage improvement in horticulture,— Objects of societies.

- (a) by holding meetings for discussion and for hearing lectures on subjects connected with the theory and practice of improved horticulture;

- (b) by holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs;
- (c) by the distribution of seeds, plants, bulbs, flowers, shrubs and trees in ways calculated to create an interest in horticulture;
- (d) by promoting the circulation of horticultural periodicals;
- (e) by encouraging the improvement of home and public grounds, by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art and public beauty;
- (f) by offering prizes for essays on questions relating to horticulture;
- (g) by importing and otherwise procuring and distributing seeds, plants, shrubs, and trees of new and valuable kinds.

Distribution  
of  
expenditure.

- (2) A society shall not expend more than one-half of its total receipts in any one of the lines of work mentioned, but in estimating such receipts, grants or donations for any specific purpose shall not be considered.

Not to act  
with agricul-  
tural  
society.

- (3) No society shall hold an exhibition, or offer premiums, in connection with the exhibition of any agricultural society.

Restrictions  
on expendi-  
ture.

- (4) None of the funds of a society shall be expended for any purpose inconsistent with those mentioned, and a society which violates any of the provisions of this subsection and subsections 2 and 3 shall forfeit all claim to the Government grant. R.S.O. 1927, c. 72, s. 8.

Annual  
meetings.

- 9.**—(1) The annual meetings of a society shall be held during the 9th to the 15th days of January, inclusive, of each year, at such time and place as the board of directors may determine.

- (2) At any such meeting only those members who have paid their subscriptions for the ensuing year shall be entitled to vote.

Notice of  
meeting.

- (3) At least two weeks' previous notice of any such meeting shall be given by advertisement in one or more newspapers published in the municipality, and also by printed placards



or bills posted in places of common resort, or by sending the same by registered post to the last known post-office address of each member of the society in good standing; such notices shall be mailed at least one week previous to, and shall state the time and place of, the meeting.

(4) In case a society fails to hold its annual meeting during the week from the 9th to the 15th days of January, inclusive, the Minister, on petition of twenty members, may appoint a time for holding the same not later than the 1st day of March in the same year, and the meeting shall be called as for the regular annual meeting and shall be taken in all respects as the annual meeting of the society.

Failure to hold meetings at regular time.

(5) In the event of the annual meeting not being held as provided for in this Act, or in the event of the number of the members on the 1st day of July in any year being less than the number required for organization, the society shall not be entitled to receive any further financial aid from this Legislature, and shall be deemed to have been dissolved, but the directors elected at the last properly constituted meeting of the society, prior to the 1st day of July, shall be trustees of the assets of the society until the same are disposed of by order of the Minister.

Dissolution of society, if meeting not held.

(6) Upon being notified, or becoming aware of the dissolution of any society under the provisions of subsection 5, the Superintendent may order the directors to deliver over to the Department the assets, if any, remaining after all just debts have been paid. R.S.O. 1927, c. 72, s. 9.

Disposal of assets on dissolution.

**10. At the annual meeting,**

Annual report.

(a) the board of directors shall present a report of their proceedings for the past calendar year, in which shall be stated the names of all the members of the society, the amount of money expended in each of the lines of work open to horticultural societies, as outlined in section 8, and when an exhibition or exhibitions have been held and premiums awarded the report shall show the total amount offered in prizes at each, the amount paid in prizes, and the number of entries;

(b) the board shall also present a detailed statement of the receipts and expenditures for the preceding year, and a statement of the assets and liabilities of the society at the end of the year, certified to by the auditors;

Statement of receipts and expenditures.

Election of officers.

(c) the officers and other directors specified in clause g of section 6 and to be qualified as therein provided shall be elected by the members, and auditors shall be appointed for the ensuing year. R.S.O. 1927, c. 72, s. 10.

Transmission of reports to Department.

Form of report.

**11.**—(1) The reports shall, if approved by the meeting, be placed on record in the books of the society, and shall be sent, not later than the 1st day of March, to the Department, and the Minister may require all such reports to be made out on schedules to be supplied by the Department in such form as he may direct, and failure on the part of the society to comply with these requirements shall be sufficient to forfeit all claim to participation in the legislative grant.

Attestation of statements.

(2) The Minister may require that any of the statements referred to in the above report shall be attested by affidavit in such form as he may prescribe. R.S.O. 1927, c. 72, s. 11.

By-laws.

**12.** The members of each society may, at any annual meeting, or at a special meeting of which two weeks previous notice has been given in the manner required by subsection 3 of section 9, make, alter and repeal by-laws and regulations for the general management of the society, and subject to such by-laws and regulations the board of directors shall have power to act for and on behalf of the society, and all grants and other funds of the society shall be received and expended under their direction. R.S.O. 1927, c. 72, s. 12.

Meetings of Directors.

**13.** The first meeting of the board of directors of a society may be held on the day of the annual meeting, and the subsequent meetings may be held pursuant to adjournment, or called by written notice given by authority of the president, or in his absence of the first vice-president, or in the absence or neglect of the president or vice-president then on the written notice of three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum. R.S.O. 1927, c. 72, s. 13.

Dissolution of union societies.

**14.** Where two or more municipalities have been united under the provisions of any former Act to form a horticultural society a dissolution of such union society may be effected in the following manner; a petition requesting the dissolution and the organization of new societies shall be signed by a majority of the members residing in any one of the municipalities and shall be forwarded to the Minister, and if the number so signing is equal to the number required for the organization of a new society as in section 6 the Minister shall direct that new societies shall be organized in

the manner prescribed in section 6, and the former union society shall thereupon become dissolved and shall cease to exist. R.S.O. 1927, c. 72, s. 14.

**15.** On the dissolution of a union society the assets of the society shall be equitably apportioned or divided by arbitrators, or a majority of them, one to be appointed by the board of directors of each of the new societies, and another arbitrator to be chosen by the arbitrators so appointed, or, in the event of the arbitrators failing to choose such arbitrator within ten days after being appointed, the senior judge of the county or district court, as the case may be, having jurisdiction in the county or district shall appoint such arbitrator. R.S.O. 1927, c. 72, s. 15.

Distribution  
of assets on  
dissolution.

**16.** On or before the 1st day of July of each year the officers of every society shall send to the Department an affidavit, stating the number of members in good standing at the time of making the same, and also the amount of money expended for horticultural purposes as defined by this Act. R.S.O. 1927, c. 72, s. 16.

Annual  
statements  
to Depart-  
ment.

**17.** Every society organized under or recognized by this Act shall be entitled to receive a grant out of the unappropriated money in the hands of the Treasurer of Ontario, the grant to be paid on the recommendation of the Superintendent, and on condition that,—

Grant out of  
Provincial  
funds.

- (a) the number of paid-up members for the current year is not less than the number required for organization;
- (b) all reports and returns required by this Act have been made to the satisfaction of the Superintendent;
- (c) the annual meeting has been held as required and officers elected, in accordance with section 10;
- (d) the objects of the society, as set out in section 8, have been strictly adhered to, and none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with those objects. R.S.O. 1927, c. 72, s. 17.

**18.—(1)** Such amounts as may be voted by the Assembly shall be subject to division among the horticultural societies as follows:

Division of  
Provincial  
grant.

- (a) One-third shall be subject to division among all the societies in proportion to the total number of members of each society in the preceding year.

- (b) Two-thirds shall be subject to division among all the societies in proportion to the total amount expended by each society during the preceding year for horticultural purposes, in accordance with the provisions of section 8.
- (c) A society in the first year of its existence shall receive a grant at the rate of \$1 for each paid-up member on the 1st day of July, but such grant shall not exceed in all \$75.
- (d) No society shall be entitled to receive an annual grant of more than \$500.

(2) Any amount voted by the Assembly in addition to the amounts stated above in this section shall be divided among the societies in the same proportion and in the same manner as prescribed in clauses *a* and *b* of subsection 1. R.S.O. 1927, c. 72, s. 18.

Exhibitions.

**19.** The exhibitions of any society shall be held within the limits of the municipality in which the society is organized, and shall be held at such place as shall afford sufficient accommodation for such exhibitions. R.S.O. 1927, c. 72, s. 19.

Fraud in obtaining prizes.

**20.** The board of directors, on being made aware of any fraud having been committed by any member or exhibitor in the entry of any horticultural product in competition for prizes at any exhibition, may withhold the payment of any prizes that may have been awarded by the judges to any members or exhibitors on such fraudulent or any other entries made at any such exhibition. R.S.O. 1927, c. 72, s. 20.

Appointment of constables.

**21.** Any justice of the peace having jurisdiction in any city, town or village wherein an exhibition is held shall, on request of the president or executive committee of any society, appoint as many policemen or constables as may be required at the expense of the society, whose duty it shall be to protect the property of such society and to eject all persons who may be improperly within the grounds or on the premises, or who may behave in a disorderly manner or otherwise violate any of the rules or regulations of such society. R.S.O. 1927, c. 72, s. 21.

Penalty for interference with officers.

**22.** If any person wilfully hinders or obstructs the officers or servants of any society in the execution of their duty, or gains admittance to the exhibitions of such society contrary to the rules of the society, he shall incur a penalty of not less than \$1 and not more than \$20, recoverable under the provisions of *The Summary Convictions Act*, and to be paid over to such society for its use and benefit. R.S.O. 1927, c. 72, s. 22.

Rev. Stat., c. 136.  
Application of penalty.



**23.** Every person not under eighteen years of age who has paid the membership subscription for the year then ensuing to any society to which this Act applies shall have the right of voting at the election of officers and on all other questions submitted to the annual meetings of such societies. R.S.O. 1927, c. 72, s. 23.

Right to  
vote at  
meeting.

**24.** No membership subscription for the ensuing year paid at the annual meeting after the president or presiding officer has declared the poll open for the election of officers shall entitle any person to vote for such officers. R.S.O. 1927, c. 72, s. 24.

When votes  
may not be  
received.

**25.** Except as otherwise provided a vacancy occurring by the death or resignation of any officer of a society may be filled by the remaining officers thereof, and it shall be the duty of officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if for any reason a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in section 26. R.S.O. 1927, c. 72, s. 25.

Vacancies in  
office.

**26.—(1)** In the event of an election of any officers of a society not being held at the time or place herein directed, or being for any reason illegal or void, the persons in office at the time when such officials should have been elected shall continue to be the officers of such society until their successors are legally appointed.

Illegal  
election.

(2) In the event of any such non-election, or illegal election, a special meeting of the members of such society shall be called, as soon as practicable, for the election of such officers, such meeting to be called in the manner provided in subsection 3 of section 9 by the president, or in his absence or on his neglect by the vice-president, or in the absence or on the neglect of the president and vice-president by three members of the society, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of such society. R.S.O. 1927, c. 72, s. 26.

Special  
meeting  
for election.

**27.—(1)** A special meeting of the directors of any society organized under this Act may be called by the president thereof, or in his absence or on his neglect by the vice-president, or in the absence or on the neglect of the president and vice-president by any three members of such body, of which meeting at least seven days' notice shall be given to each member.

Special  
meeting of  
directors.

Quorum.

(2) Except as otherwise provided for a majority of the directors of any society shall be a quorum. R.S.O. 1927, c. 72, s. 27.

Security by treasurer.

**28.**—(1) The treasurer of every society, before entering upon the duties of his office, shall give such security, either by joint or several covenant with one or more sureties or otherwise as the board of directors or other managing officers may deem necessary, for the faithful performance of his duties, and especially for the due accounting for and paying over of all money that may come into his hands.

Duty of board as to security.

(2) It shall be the duty of every such board in each and every year to enquire into the sufficiency of the security given by such treasurer and report thereon, and where the same treasurer for any society is reappointed from year to year, his reappointment shall not be considered as a new term of office, but as a continuance of the former appointment, and any such bond or security given to the society for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto.

Personal responsibility of officers.

(3) If the officers of a society neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the society in the hands of the treasurer. R.S.O. 1927, c. 72, s. 28.

Municipal grants in aid of society.

**29.** The municipal council of any city, town, village, county or township may grant or loan money in aid of any society formed within the limits of the municipality when such society has made the returns required by this Act to be made to the Minister. R.S.O. 1927, c. 72, s. 29.

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FORM 1.

(Section 6.)

#### DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a society, under the provisions of *The Horticultural Societies Act*, to be called the Horticultural Society of (*naming the point that will be the headquarters of the society*); and we hereby severally agree to pay to the treasurer the sums opposite our respective names; and we further agree to conform to the by-laws and rules of the society:

Names.

\$

cts.

R.S.O. 1927, c. 72, Form 1.

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## CHAPTER 83.

## The Agricultural Representatives Act.

**1.** The Lieutenant-Governor in Council, upon the recommendation of the Minister of Agriculture, may appoint officers who shall be graduates of the Ontario Agricultural College and may be known as agricultural representatives. Appointment of representatives.  
R.S.O. 1927, c. 73, s. 1.

**2.** The Minister of Agriculture may appoint assistants to agricultural representatives and may employ such clerical and other assistance as he may deem necessary for the purposes of this Act. Assistants and clerks.  
R.S.O. 1927, c. 73, s. 2.

**3.** The agricultural representatives shall perform such duties as the Minister of Agriculture, or such officer of the Department of Agriculture as he may designate, may from time to time direct, and any moneys appropriated by the Legislature for the purposes of this Act shall be expended subject to such direction. Duties and expenditure.  
R.S.O. 1927, c. 73, s. 3.

**4.—(1)** The county council shall in each year on or before a date to be fixed by the Minister of Agriculture pay into a bank to the credit of the agricultural representative in charge of each office in the county the sum of \$500 for the purpose of assisting in carrying on the work of the agricultural representative, and such sum shall be paid out from time to time by the agricultural representative with the approval of the Minister of Agriculture or of the officer designated as provided in section 3. County grants.

**(2)** An annual statement of the disposition of the sum so set apart together with a statement of the work carried on by each agricultural representative in the county during the preceding year shall be furnished to the county council. Annual statement.  
1931, c. 20, s. 2.

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## CHAPTER 84.

## The County Publicity Act.

Formation  
of  
association.

1.—(1) An association, to be known as a publicity association, may be formed in any county by the county council or in any district in such manner as may be defined by the Department of Agriculture. R.S.O. 1927, c. 74, s. 1 (1).

Objects of  
association.

(2) The objects of the association shall be the investigation of the resources and possibilities of the county or district and the advertising and publishing of the same by the preparation, publication and distribution of pamphlets and such other means as may be sanctioned by the regulations. R.S.O. 1927, c. 74, s. 1 (2); 1930, c. 21, s. 5.

Minister  
to approve  
publications.

2. All pamphlets or other literature prepared by an association shall be submitted to the Minister of Agriculture for approval before being issued. R.S.O. 1927, c. 74, s. 2.

Provincial  
grant in  
aid of  
association.

3. Every publicity association shall be entitled to receive from the Province out of any moneys appropriated by the Legislature for that purpose a sum equal to one-third of the total cost to the association of carrying out the objects mentioned in section 1, but the total cost on which grants shall be payable under this Act shall not exceed \$1,000 in any one county or district in any one year. R.S.O. 1927, c. 74, s. 3.

Obtaining  
payment of  
provincial  
grant.

4. Application for grants payable under this Act may be made to the Minister of Agriculture, and shall be accompanied by an affidavit signed by the president and secretary of the association setting forth in detail the receipts and expenditures of the association for the period covered by the application, and the cheque shall be made payable to the order of the president and secretary of the association. R.S.O. 1927, c. 74, s. 4.

Power to  
make  
regulations.

5. The Lieutenant-Governor in Council may make such regulations as may be deemed expedient for the better carrying out of the objects of this Act. R.S.O. 1927, c. 74, s. 5.

Assistance  
of agents of  
Province in  
England.

6. Every publicity association shall be entitled to the assistance free of charge of the agents of Ontario in Great Britain or elsewhere, in the distribution of pamphlets or other advertising matter. R.S.O. 1927, c. 74, s. 6.

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## CHAPTER 85.

## The Co-operative Marketing Loan Act.

## 1. In this Act,—

Interpreta-  
tion.

(a) “Co-operative association” shall mean any co-operative corporation of producers incorporated under Part XII of *The Companies Act* for the purpose of grading, cleaning, packing, storing, drying or marketing agricultural products; “Co-operative association.”  
Rev. Stat.,  
c. 251.

(b) “Minister” shall mean Minister of Agriculture; “Minister.”

(c) “Regulations” shall mean regulations made under the authority of this Act; 1932, c. 16, s. 2; 1936, c. 11, s. 2 (1). “Regulations.”

(d) “Treasurer” shall mean Treasurer of Ontario. 1936, c. 11, s. 2 (2). “Treasurer.”

2.—(1) The provisions of this Act may be extended by the Lieutenant-Governor in Council to associations other than co-operative associations incorporated under *The Companies Act*, if the majority of the shares of capital stock thereof are owned by producers of agricultural products. Extension of  
provisions  
of Act.

(2) No loan shall be made to any association mentioned in subsection 1 unless a contract is entered into by such association with the Minister according to the form prescribed by the regulations and providing for such limitations and conditions as will ensure control of the management and operation of the association remaining vested in producers until the loan is fully repaid. Conditions  
of loan.

(3) When a loan is made to an association mentioned in subsection 1 the provisions of this Act relating to co-operative associations shall, *mutatis mutandis*, apply. 1932, c. 16, s. 3. Application  
of provisions  
of Act.

3. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make loans to co-operative associations to assist in carrying out their objects to the following extent, namely: Limitation  
as to loan.

- (a) in the case of a co-operative association other than a cold storage association, to an amount not exceeding \$5,000; 1932, c. 16, s. 4, cl. (a); 1936, c. 11, s. 3.
- (b) In the case of a co-operative cold storage association to an amount not exceeding fifty per centum of the approved value of the property on which the loan is to be made, but in no case to exceed the sum of \$50,000; 1935, c. 11, s. 2.

Rate of  
interest.

4.—(1) Subject to the regulations, the rate of interest payable upon any loan made under this Act shall be as provided for in the contract relating thereto. 1932, c. 16, s. 5 (2).

Repayment  
of loan.

(2) A loan may be repaid at any time at the option of the co-operative association, but repayment of principal thereof shall be commenced not more than three years from the date of the loan and so that at least fifty per centum shall be repaid at the end of ten years from such date and so that the whole of the loan shall be repaid at the end of twenty years from such date, and every contract shall make the necessary provisions to ensure such repayment. 1932, c. 16, s. 5 (3); 1936, c. 11, s. 4.

Security  
for loan on  
chattel.

Rev. Stat.,  
c. 181.

5.—(1) Every loan made on a chattel shall be secured by a chattel mortgage made in favour of the Treasurer and made in accordance with *The Bills of Sale and Chattel Mortgage Act*.

Security for  
loan on real  
estate.  
Rev. Stat.,  
c. 160.

(2) Every loan made on real estate shall be secured by a first mortgage on such real estate made in favour of the Treasurer in accordance with *The Short Forms of Mortgages Act*.

Rights and  
powers of  
Treasurer.

(3) Every mortgage, whether on real estate or a chattel, may contain such further covenants, provisos and conditions as the Treasurer may deem proper, and the Treasurer shall have and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act that a mortgagee has and may exercise under the laws of the Province of Ontario.

Preparation  
of notices,  
mortgages,  
etc.

(4) All notices, mortgages, discharges and other documents of every kind and description which may be made under this Act, except any contract made with the Minister, shall be prepared by a person designated by the Treasurer.

Assignment  
of mortgage.

(5) Every mortgage, whether on real estate or a chattel, heretofore given as security for a loan made under this Act may be assigned by the Minister, the Agricultural Development Board or the Commissioner of Agricultural Loans to the Treasurer. 1936, c. 11, s. 6.

**6.** The Minister shall lay before the Assembly at each session a report of all loans made under the authority of this Act and the regulations. 1932, c. 16, s. 8.

Minister's  
report to  
Assembly.

**7.** Every co-operative association to which an undischarged loan has been made shall make such annual or other reports, returns and statements to the Treasurer as the regulations may prescribe. 1932, c. 16, s. 9; 1936, c. 11, s. 7.

Report of  
co-operative  
association.

**8.** Every co-operative association to which an undischarged loan has been made shall by written notice advise the Treasurer of the time and place for each annual meeting and the Treasurer or his representative shall have the privilege of attending all meetings. 1932, c. 16, s. 10; 1936, c. 11, s. 7.

Notice of  
annual  
meeting.

**9.** The Treasurer may, if in his opinion it is necessary, by notice to the secretary, call a meeting of the members or shareholders of any co-operative association to which an undischarged loan has been made to inquire into its affairs at such time and place as he may specify in the notice. 1932, c. 16, s. 11; 1936, c. 11, s. 7.

Treasurer  
may call  
meeting.

**10.**—(1) The Treasurer may appoint some person to inspect the books, accounts and property of any co-operative association to which an undischarged loan has been made and may empower such person to summon witnesses and enforce the production of documents before him, and take evidence upon oath with regard to such inspection, and all officers of any such association whenever required so to do shall submit the books and accounts thereof to such inspection and shall truly and to the best of their knowledge answer all questions put to them in relation thereto or to the funds and management of such association.

Inspection  
of books.

(2) The Treasurer may order such alterations or repairs to be made to the property of any co-operative association for the purpose of better securing a loan made under this Act. 1932, c. 16, s. 12; 1936, c. 11, s. 7.

Alterations  
and repairs.

**11.** If a co-operative association to which a loan has been made makes any default in the performance of the terms of the contract entered into with the Minister or otherwise commits a breach of any of the provisions of this Act, or in the opinion of the Treasurer, fails or ceases to carry out its objects, the Treasurer may without resort to proceedings in equity or law rescind the contract and without notice, exercise any and all of his powers of sale as mortgagee as in the case of default on the part of a mortgagor notwithstanding that no actual default in payment of principal or interest under the mortgage may have occurred. 1936, c. 11, s. 8.

Default in  
performance  
or breach of  
provisions.

**12.** The Lieutenant-Governor in Council may make regulations,—

Regulations.

- (a) prescribing the form and manner of making application and a contract for a loan and the manner in which each application shall be dealt with;
- (b) prescribing the rates of interest to be payable upon loans made under this Act;
- (c) providing for inspection and valuation of the property upon which the loan is to be secured;
- (d) respecting inquiries to be made and information to be furnished with respect to the object of the loan before making the loan;
- (e) with respect to any other matter regarding which the Minister or Treasurer deems regulations necessary for the execution of the purposes of this Act. 1932, c. 16, s. 14; 1936, c. 11, s. 9.

Powers of  
Minister.

**13.** The Minister may decide all matters of doubt or dispute arising under this Act and his decision shall be final except that an appeal therefrom may be made to the Lieutenant-Governor in Council. 1932, c. 16, s. 15.

Loans made  
during 1931.

**14.** The provisions of this Act shall apply to any loans made to co-operative associations during the year 1931 as if such loans had been made immediately after this Act came into force. 1932, c. 16, s. 16.

Lieutenant-  
Governor in  
Council  
authorized  
to guarantee  
payment of  
loans to co-  
operative  
associations.

**15.** The Lieutenant-Governor in Council is authorized on such terms as may be approved by Order-in-Council to agree to guarantee and to guarantee the payments of any loans, and interest thereon, made to a co-operative association, or an association to which the provisions of this Act are extended under the authority of section 2, and the form and manner of any such guarantee shall be such as the Lieutenant-Governor in Council may approve, and the guarantee shall be signed by the Treasurer or such other officer or officers as may be designated by the Lieutenant-Governor in Council, and upon being so signed the Province of Ontario shall become liable for the payment of the loan and interest thereon guaranteed according to the terms of the guarantee, and the Lieutenant-Governor in Council is hereby authorized to make arrangements for supplying the money necessary to fulfil the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province, and any guarantee so signed shall be conclusive evidence that the terms of this section have been complied with. 1934, c. 7, s. 2; 1936, c. 11, s. 10.



## CHAPTER 86.

## The Fruit Packing Act.

## 1. In this Act,—

Interpreta-  
tion.

(a) "Minister" shall mean Minister of Agriculture; "Minister." R.S.O. 1927, c. 76, s. 1, cl. (a).

(b) "Association" shall mean any association of fruit growers incorporated as an association under *The Companies Act* for the purpose of marketing fruit and composed of not less than ten fruit growers who together hold at least one hundred acres of land and have contracted to market their fruit through such association. 1932, c. 53, s. 8.

2. The Lieutenant-Governor in Council upon the recommendation of the Minister may make a grant out of such moneys as may be appropriated by the Legislature for that purpose, to any association in accordance with the provisions of this Act for the purpose of acquiring, erecting or equipping buildings necessary for the proper grading, packing and storing of the fruits grown by the members of such association. R.S.O. 1927, c. 76, s. 2; 1932, c. 53, s. 9.

Grant for  
erecting  
packing  
houses.

3. Such grant shall not exceed twenty-five per centum of the appraised value of the buildings upon which the grant is to be made, or a total of \$1,500 in any one case. R.S.O. 1927, c. 76, s. 3.

Grant not  
to exceed  
twenty-five  
per cent. of  
appraised  
value.

4. The plans and location of the buildings must be approved by the Minister, before a grant be paid. R.S.O. 1927, c. 76, s. 4.

Approval  
of plans and  
location.

5. Buildings on which a grant is paid under this Act shall be vested in the association, but no such building shall be disposed of by any such association without the consent of the Minister. R.S.O. 1927, c. 76, s. 5.

Right of  
ownership.

6. The control and management of the buildings erected under this Act shall be vested in the association and the association may fix charges and adopt regulations for the proper conduct of the work and shall accept fruit for grading, packing or storage from growers, who are not members of the

Use of  
building by  
outside  
growers.

association, on such terms as may seem reasonable. R.S.O. 1927, c. 76, s. 6.

Annual  
statement  
submitted  
to Minister.

**7.** The association shall at least once in every year, and whenever called upon to do so by the Minister, transmit to the Minister a general statement of the funds and effects of the association, the number of members or shareholders therein, and such other information as may be requisite to show clearly the position of the association and the business done during the year, which return shall be certified by the president and secretary as being correct. R.S.O. 1927, c. 76, s. 7.

Repayment,  
effect of.

**8.** Upon repayment of the amount of the grant by any association, such association shall be relieved of all the conditions and limitations otherwise imposed by this Act. R.S.O. 1927, c. 76, s. 8.

Powers of  
Minister.

**9.** The Minister may decide all matters of doubt or dispute as to the working of the association or the construction of this Act, and his decision shall be final, except that an appeal therefrom may be made to the Lieutenant-Governor in Council. R.S.O. 1927, c. 76, s. 9.

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## CHAPTER 87.

## The Consolidated Cheese Factories Act.

1. In this Act "Minister" shall mean Minister of Agriculture. Minister,—  
meaning of. R.S.O. 1927, c. 77, s. 1.

2. Loans may be granted by the Minister, with the approval of the Lieutenant-Governor in Council, out of any moneys appropriated for the purpose by the Legislature from time to time towards the erection of consolidated cheese factories under and subject to the provisions and conditions herein set forth. Loans for  
building  
purposes. R.S.O. 1927, c. 77, s. 2.

3.—(1) Every such loan shall be secured by a first mortgage on the lands, buildings and equipment in respect of which the loan is made. Security  
required  
for loans.

(2) The loan shall bear interest at the rate of five per centum per annum. Interest.

(3) No loan shall be made of an amount in excess of eighty per centum of the value of the lands and buildings in respect of which the loan is made. Limit of  
loan. R.S.O. 1927, c. 77, s. 3.

4.—(1) The application for a loan may be made by milk producers in any part of the Province of Ontario who desire to erect a modern dairy plant to take the place of two or more smaller ones and who have agreed to supply annually three million pounds of milk to the said dairy. Application  
for loan for  
modern  
dairy plant.

(2) The applicants shall form a co-operative company and shall subscribe for stock to an amount sufficient, in the opinion of the Minister, to finance the enterprise. Applicants  
to form  
co-operative  
company.

(3) Twenty per centum of the par value of such stock shall be paid at the time of subscription and the balance deducted from the value of the milk delivered at the factory at a rate not less than three per centum nor more than five per centum until the stock is fully paid up. Terms of  
loan.

(4) All moneys received on account of stock in such company shall be deposited in the trust fund and shall at the end Moneys,—  
when to be  
paid over to  
Minister.

of each three months period be paid over to the Minister to be applied for the repayment of the moneys advanced.

Limit of  
five  
shares to  
each person.

(5) A shareholder in the company shall not hold more than five shares nor have more than one vote, and all shares in the company shall be transferable subject to the approval of the directors. R.S.O. 1927, c. 77, s. 4.

Site, plan  
and equip-  
ment subject  
to approval  
of Minister.

5.—(1) The site, plan and equipment of every factory in respect of which a loan is advanced under this Act, shall be subject to the approval of the Minister, but the company shall have the management of the factory, provided that the Minister shall have the right to name one director until such time as the loan is fully paid.

Board of  
appraisal.

(2) A loan shall not be made under this Act until a board of appraisal, consisting of a chief dairy instructor, the president of a dairymen's association and of some other disinterested person agreed upon by them, or in default of agreement, named by the Minister, shall have reported

(a) as to the value of the land, building, and equipment of the factory in respect of which the loan is to be made; and

(b) that in their opinion all reasonable efforts have been made to effect a satisfactory adjustment with any factory which will be displaced by the factory in respect of which the loan is made. R.S.O. 1927, c. 77, s. 5.

Regulations.

6. The Lieutenant-Governor in Council may make regulations for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 77, s. 6.

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## 10. STATISTICS.

## CHAPTER 88.

## The Vital Statistics Act.

## PRELIMINARY.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Cemetery" shall mean any plot of ground in which "Cemetery." bodies of deceased persons are interred;
- (b) "House" shall include a part of a house and tene- "House." ment, building, room or dwelling place;
- (c) "Inspector" shall mean the Inspector of Vital "Inspector." Statistics or his deputy or other person authorized to act;
- (d) "Municipality" shall not include a county; "Municipality."
- (e) "Nurse" shall mean that person who attends at the "Nurse." birth of a child, but shall not mean the attending physician;
- (f) "Occupier" shall include the governor, keeper, war- "Occupier." den or superintendent of a gaol, prison, penitentiary, mental hospital, institution for the poor, hospital, industrial home, and house of refuge, and of a public or private charitable institution;
- (g) "Prescribed form" shall mean the form prepared "Prescribed form." by the Registrar-General and approved by the Lieutenant-Governor in Council;
- (h) "Registrar-General" shall mean that member of the "Registrar-General." Executive Council who for the time being is charged with the administration of this Act;
- (i) "Sub-registrar" shall mean any person appointed "Sub-registrar." under section 38 to carry out the provisions of subsection 2 of that section;

“Under-  
taker.”

- (j) “Undertaker” shall mean any person who engages in the burial of the body of a deceased person. R.S.O. 1927, c. 78, s. 1.

Application  
to Indian  
reserves.

2. This Act shall apply to lands reserved for the Indians which for the purposes hereof shall be deemed territory not within a municipality. R.S.O. 1927, c. 78, s. 2.

Inspector,—  
appoint-  
ment and  
duties of.

3. The Lieutenant-Governor in Council may appoint an Inspector of Vital Statistics whose duty it shall be to inspect the registration offices and examine the schedules prepared under this Act to see that the entries and registrations are made and completed in a proper manner and in legible handwriting. R.S.O. 1927, c. 78, s. 3.

Annual  
report of  
Registrar-  
General.

4. The Registrar-General shall annually collate, publish and distribute for the use of the Legislature a full report of the births, marriages and deaths of the preceding year, giving such details, statistics and information as the Lieutenant-Governor in Council may deem necessary. R.S.O. 1927, c. 78, s. 4.

Regulations.

5. The Lieutenant-Governor in Council may make such regulations as he may deem necessary for the purpose of obtaining the information required by this Act. R.S.O. 1927, c. 78, s. 5.

Searching  
records with  
Registrar-  
General.

- 6.—(1) Any person shall be entitled at all reasonable hours on payment of the prescribed fee and on signing an application in the prescribed form, to have search made of the record of a birth, marriage or death kept in the office of the Registrar-General for any one county or district for not more than three years.

Certificate  
of  
registration.

- (2) The Registrar-General shall, when requested, give a certificate of the details of any birth, marriage or death of which there is a record in his office on payment of the prescribed fee. R.S.O. 1927, c. 78, s. 6 (1, 2).

Certificate as  
*prima facie*  
evidence.

- (3) The certificate shall be *prima facie* evidence in any court of the facts certified to be recorded. 1930, c. 19, s. 2.

Fees for  
searches and  
certificates.

- (4) The fees to be paid for searches and certificates shall be prescribed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 78, s. 6 (4).

Forms.

7. The Registrar-General shall cause such schedules and forms to be prepared as may be approved by the Lieutenant-

Governor in Council in order to obtain correct statistical information, and he shall distribute them to the division registrars, and the cost of and incidental thereto and of the distribution thereof shall be paid out of the Consolidated Revenue Fund. R.S.O. 1927, c. 78, s. 7.

8.—(1) The Registrar-General shall prepare and issue Instructions. such detailed instructions as may be required to procure the uniform observance of the provisions of this Act and the maintenance of a perfect system of registration, and no forms shall be used other than those supplied by the Registrar-General.

(2) The Registrar-General shall examine the forms received Examination of forms. monthly from the division registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. R.S.O. 1927, c. 78, s. 8.

9. Every physician, clergyman, nurse, undertaker or other person having knowledge of the facts respecting any birth, marriage, or death shall supply personally, or by mail, or through the division registrar, such information as the Registrar-General may require, by filling up forms provided by the Registrar-General, or by adding such particulars as may be required upon an original certificate, but no certificate of birth, marriage or death after its acceptance for registration by a division registrar, nor any other record made in pursuance of this Act, shall be altered or changed in any respect except by amendments properly dated, signed and witnessed. R.S.O. 1927, c. 78, s. 9. Duty as to supplying information to Registrar-General.

10. The Registrar-General shall arrange, bind and permanently preserve the forms after the same have been received from the division registrars in a systematic manner, and shall prepare and maintain an index of births, marriages and deaths. R.S.O. 1297, c. 78, s. 10. Arrangement and preservation of records.

11.—(1) Any cemetery company or association, or any church or historical society or association, or any corporation or individual in possession of any record of births, marriages or deaths which may be of value in establishing the genealogy of any resident in Ontario, may file such record or a duly authenticated transcript thereof with the Registrar-General without charge. Records which may be filed with Registrar-General.

(2) It shall be the duty of the Registrar-General to preserve such record or transcript and to make an index thereof, and such record and index shall be open to inspection by the How to be dealt with.

public, subject to such conditions as the Registrar-General may prescribe. R.S.O. 1927, c. 78, s. 11.

#### REGISTRATION DIVISIONS.

Registration divisions. **12.**—(1) All territory within Ontario shall be a part of some registration division.

Municipalities to be. (2) Every municipality shall be a registration division.

Unorganized territory. (3) Territory not within a municipality may be attached to any existing registration division, or set apart as a registration division, by the Lieutenant-Governor in Council. R.S.O. 1927, c. 78, s. 12.

Registrars in unorganized territory. **13.** Where a registration division is formed of territory not within a municipality the Lieutenant-Governor in Council may appoint a division registrar therefor and may make such regulations as he may deem necessary to secure a correct record of the births, marriages and deaths occurring therein. R.S.O. 1927, c. 78, s. 13.

#### OFFICE AND DUTIES OF DIVISION REGISTRAR.

Registrars in municipalities. **14.**—(1) The clerk of every municipality shall be the division registrar of the same.

Schedules for division registrars. (2) The Registrar-General shall supply to every division registrar schedules in the prescribed form upon which the division registrar shall enter the details of every birth, marriage and death registered in his office.

Schedules of returns, — how and when to be made up. (3) The division registrar and every sub-registrar shall make every schedule in duplicate and on or before the seventh day of each month he shall transmit to the Registrar-General one duplicate of each schedule down to and including the last day of the month next preceding, and the other duplicate schedule shall be kept by the division registrar on file in his office, and he shall also, on or before the seventh day in each month, transmit to the Registrar-General the original returns of every birth, marriage and death made to him during the month next preceding, and if no birth, marriage or death has been registered in any month he shall, on or before the seventh day of the following month, report the fact to the Registrar-General on the prescribed form.

Arrangement. (4) The duplicate schedule shall be bound up or otherwise arranged from time to time by the division registrar in such manner as may be prescribed.



(5) It shall be the duty of the division registrar to keep <sup>Custody.</sup> the schedules, forms and documents received by him in a place of safety, and he shall use all available means to obtain the necessary information for the purpose of completing the records required to be made by him. R.S.O. 1927, c. 78, s. 14.

**15.** If the division registrar has reason to believe that a birth, marriage or death has taken place within his division which has not been registered he shall inform the proper person of his duty to register the same, and on the failure of such person to make the registration within seven days the division registrar shall forthwith supply the Registrar-General with such information as he possesses with regard to the matter. R.S.O. 1927, c. 78, s. 15. <sup>Action by division registrar on non-registration.</sup>

**16.—(1)** A division registrar, upon application therefor, and on payment of a fee of twenty-five cents shall give a certificate in the prescribed form as to any registration filed with him during the preceding three months, but shall not give any certificate other than such as is authorized by this section in any other than the prescribed form. <sup>Certificate of division registrar.</sup> <sup>Certificate of registration.</sup>

(2) The division registrar shall be entitled to the fee for the certificate for his own use. R.S.O. 1927, c. 78, s. 16. <sup>Fee.</sup>

**17.—(1)** If within one year from the registration of a birth, marriage or death any of the particulars thereof are found to be omitted or incorrect it shall be the duty of the proper division registrar upon the error being reported to him within the time aforesaid to inquire into the same, and if satisfied that the entry is incorrect to correct the error according to the fact, entering the correction in the margin, without any alteration of the original entry, and shall note thereon the fact that the correction has been made and the date thereof. <sup>Correcting errors in registration.</sup>

(2) If the forms containing the original entry have been returned to the Registrar-General, the Registrar-General shall on evidence satisfactory to him correct the error in the margin of the form as well as in the indexed record thereof without altering the original entry, and shall note thereon the fact that the correction has been made and the date thereof. R.S.O. 1927, c. 78, s. 17. <sup>Correction after return of forms.</sup>

**18.—(1)** Every division registrar shall supply free of charge, any form required by a person in order to comply with the provisions of this Act. <sup>Forms to be supplied free.</sup>

Division registrar to see to correctness of certificate.

(2) The division registrar shall carefully examine every certificate of birth, marriage or death, in order to ascertain whether or not it has been made out in the prescribed form, and every such certificate of birth, marriage or death shall be written legibly in durable black ink, and shall not be deemed to be complete unless it contains all the items of information called for therein or satisfactorily accounts for their omission.

Correcting defects.

(3) If a certificate of death is incomplete or unsatisfactory it shall be the duty of the division registrar to call attention to the defects in the return and to withhold the permit for the burial or removal of the body until such defects are corrected.

Numbering registrations.

(4) The division registrar shall number consecutively the registration of births, marriages and deaths in three separate series beginning with "No. 1," for the first birth, marriage and death in each calendar year and shall sign his name as division registrar in attestation of the date of the filing in his office. R.S.O. 1927, c. 78, s. 18.

General duty of division registrar.

**19.** Every division registrar shall be charged with the enforcement of this Act in his registration division under the supervision and direction of the Registrar-General and he shall make an immediate report to the Registrar-General of any violation of the law which comes to his knowledge. R.S.O. 1927, c. 78, s. 19.

#### REGISTRATION OF BIRTHS.

Duty of medical practitioner.

**20.**—(1) Every legally qualified medical practitioner who attends at the birth of a child shall within forty-eight hours give notice thereof in the prescribed form to the division registrar of the division in which the child was born.

Where no physician in attendance.

(2) If there is no physician in attendance it shall be the duty of the nurse in attendance or the occupier of the house in which the child was born, to give notice of the birth in the prescribed form to the division registrar. R.S.O. 1927, c. 78, s. 20.

Who to register with.

**21.**—(1) When a child is born registration of the birth in the prescribed form shall be made with the division registrar in the division in which the child was born,—

(a) by the father if living; or

- (b) in case of inability on the part of the father or if he is dead, then by the mother if living; or
- (c) in case of inability on the part of both parents or in case both are dead, then by the person standing in the place of the parents of the child; or
- (d) if there is no father or mother or other person whose duty it is to register the birth, by the occupier of the house in which the child was born if he has knowledge of the birth, or by the nurse or other person present at the birth.

(2) The registration shall be made within thirty days after the date of the birth. Time for registering.

(3) A certificate of registration shall be given by the division registrar to the person registering, free of charge. Certificate of birth registration. R.S.O. 1927, c. 78, s. 21.

**22.** If a living new-born child is found exposed it shall be the duty of any person finding such child, and of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the division registrar of the division in which the child is found, within seven days after the finding of such child, such information of the particulars required to be registered concerning its birth as the informant possesses. Registration of foundlings. R.S.O. 1927, c. 78, s. 22.

**23.** An illegitimate child shall be registered in the name of the mother, and the name of the father shall not be recorded unless the father and the mother request registration in the name of the father. Registration of birth of illegitimate child. R.S.O. 1927, c. 78, s. 23.

**24.** No child born in wedlock shall be registered as illegitimate. Child born after marriage. R.S.O. 1927, c. 78, s. 24.

**25.** The division registrar may register a birth at any time within one year after the birth occurred. Registration within one year after birth. R.S.O. 1927, c. 78, s. 25.

**26.** The Lieutenant-Governor in Council may make regulations for the registration of births which have not been registered under the foregoing provisions of this Act, and for the registration of a birth which has taken place while the mother of the child was temporarily absent from Ontario or on her way from some place out of Ontario to some locality in Ontario. Regulations as to registration of births out of Ontario. R.S.O. 1927, c. 78, s. 26.

Change of  
name after  
registration.

**27.**—(1) Where the birth of a child has been registered and the Christian or given name, if any, by which the child was registered has been changed, or, if the child was registered without a Christian or given name, the parent or guardian of the child or the person procuring the name to be changed or given may deliver to the division registrar a certificate signed by the minister, clergyman or other person who performed the rite of baptism upon which the Christian or given name was changed, or, if the child was not baptized, signed by the father, mother or guardian of the child procuring the Christian or given name of the child to be changed, and the division registrar shall upon the receipt of such certificate, make the necessary alteration in the margin of the form containing the original entry and in the transcription thereof without making any alteration in the original entry and shall also make the same correction in the index regarding such child.

Alteration  
of name in  
register.

(2) If the registration has been transmitted to the Registrar-General, the Registrar-General may make such alteration or addition, and if the certificate cannot be procured from the minister, clergyman or other person who performed the rite of baptism upon which the name of the child was changed or given, the Registrar-General may make any alteration or addition in the registration of the name of the child upon such evidence as he may deem sufficient. R.S.O. 1927, c. 78, s. 27.

Still-born  
children.

**28.**—(1) A child which is not alive at the moment of birth shall be deemed to be a still-born child, and still births shall be registered as births and as deaths and a certificate of birth and of death shall be filed with the division registrar in the prescribed form.

Notice of  
still birth.

(2) The notice of the birth of still-born child shall contain in place of the name of the child the words "still-born."

Certificate.

(3) The medical certificate of the cause of death in the case of a still birth shall be signed by the attending physician, if any, in the prescribed form, and where there is no physician in attendance the still birth shall be treated as a death taking place without medical attendance as provided for in section 36.

When child  
not to be  
deemed still-  
born.

(4) No child which shows any evidence of life after birth shall be registered as still-born. R.S.O. 1927, c. 78, s. 28.



## REGISTRATION OF MARRIAGES.

**29.**—(1) Every person who solemnizes a marriage shall <sup>Duty to report.</sup> report the same to the division registrar of the division within which the marriage was solemnized within thirty days thereafter with the particulars required in the prescribed form, but in the case of a marriage solemnized under the authority of a license or certificate it shall be sufficient to report the same on the form attached to the license or certificate.

(2) The Lieutenant-Governor in Council may make regula- <sup>Regulations for registration after thirty days.</sup> tions for the registration of marriages which have not been registered under the foregoing provisions of this Act. R.S.O. 1927, c. 78, s. 29.

## INFORMATION AS TO DIVORCES.

**30.**—(1) The senior registrar of the Supreme Court at <sup>Information as to divorces.</sup> Toronto and every local registrar of the Supreme Court shall furnish the Registrar-General with such information as he may require in connection with the granting of divorces throughout the Province and the Registrar-General may prepare forms of return which shall include the names, occupations and addresses of the parties and such other particulars as he may deem necessary. 1931, c. 21, s. 2, *part*.

(2) Every such officer shall, for the particulars as to each <sup>Fee.</sup> divorce, receive a fee of fifty cents, and such fee shall be payable from time to time by the Treasurer of Ontario on the certificate of the Registrar-General. 1931, c. 21, s. 2, *part*; 1936, c. 63, s. 2.

## REGISTRATION OF DEATHS.

**31.**—(1) The body of any person whose death occurs in Ontario shall not be removed for burial, interment, deposited in a vault or tomb, cremated or otherwise disposed of or removed from or into any registration division until a permit for that purpose has been properly issued by the division registrar of the division in which the death occurs after notice of the death has been filed with him in the prescribed form. <sup>Body not to be removed, etc., without permit.</sup>

(2) Where the death has occurred out of Ontario, or the burial or other disposition of the body is to take place in a registration division other than that in which the death has occurred, a certificate, signed by the division registrar or other proper officer of the municipality or place in which the <sup>Deaths out of Ontario.</sup>

death occurred shall be sufficient authority for the burial or other disposition of the body. R.S.O. 1927, c. 78, s. 30.

Duty of  
medical  
practitioner.

**32.**—(1) The legally qualified medical practitioner who was last in attendance during the illness of any person shall within twenty-four hours after having knowledge of the death of such person, deliver or transmit to the division registrar of the division a notice of the death in the prescribed form.

Regulations.

(2) Notwithstanding anything contained in subsection 1, the Registrar-General may make regulations providing for the issue of a burial permit where a death has taken place and there has been no legally qualified medical practitioner in attendance. R.S.O. 1927, c. 78, s. 31.

Duty of  
occupier of  
premises.

**33.** The occupier of the house in which a person dies, or if the occupier be the person who has died, then every adult person residing in the house in which the death took place, or if the death has not taken place within a house, then every person present at the death or having knowledge of the circumstances of the same shall, within twenty-four hours after having knowledge of such death, give notice of the death to the registrar of the division in the prescribed form. R.S.O. 1927, c. 78, s. 32.

Registration  
in division  
other than  
that in  
which death  
occurs.

**34.**—(1) Where a death has occurred and it is impracticable to register the same, by reason of distance, with the division registrar of the division in which the death occurred, notice of the death may be given to the nearest division registrar or sub-registrar who, upon the payment of a fee of twenty-five cents by the applicant, shall register the same in the prescribed form and issue a burial permit which shall be sufficient, and such division registrar or sub-registrar shall forward the return to the division registrar of the division in which the death occurred.

Fee.

(2) The division registrar issuing the burial permit shall be entitled to the fee for his own use. R.S.O. 1927, c. 78, s. 33.

Sub-  
registrars,—  
appointment  
of.

(3) In a city having a population of 50,000 or over, the division registrar may, with the approval of the Registrar-General, appoint such sub-registrars as may be necessary for the more convenient carrying out of the provisions of this Act with respect to the registration of deaths and for the issuing of burial permits. 1929, c. 26, s. 2; 1930, c. 19, s. 3.

Deaths in  
mines,  
camps, etc.

**35.** Where a death occurs in a camp or mine, before the removal of the body from the camp or mine, or its burial or other disposition, the manager or other person in charge shall,

within twenty-four hours after the death, give notice thereof to the division registrar in the prescribed form, and where further particulars of a death occurring in a camp or mine are required by the division registrar, the same shall be immediately furnished by the owner of such camp or mine, or other person to the best of his knowledge and belief. R.S.O. 1927, c. 78, s. 34.

**36.** Where there is reason to believe that a person has died as the result of violence or misadventure or by unfair means or from any cause other than disease or as the result of negligence or misconduct on the part of others, or under such circumstances as require investigation, no burial permit—  
issue of.  
shall be issued by a division registrar unless and until,—

- (a) notice has been given to him by the coroner that he has examined the body and made inquiry into the circumstances of the death as provided by *The Coroners Act*; or Rev. Stat., c. 138.
- (b) an inquest has been held and the coroner has furnished the particulars required in the prescribed form; or
- (c) notice has been given to him by the coroner that it is impracticable for the coroner to issue a notice of the death in the prescribed form and that he has examined the body and is making inquiry into the circumstances of the death, and that he undertakes to deliver or transmit to the division registrar, a notice of the death in the prescribed form within fifteen days after the date of such notice,

nor shall the body be embalmed or cremated nor any embalming fluid or other chemical be applied to it either internally or externally, nor shall any other change or alteration be made thereto until such notice is given or inquest held, unless the coroner so directs. 1936, c. 63, s. 3.

(NOTE.—As to coroner's duty in such cases see section 7 of *The Coroners Act*. Rev. Stat., c. 138.)

**37.** Except as otherwise provided by this Act a division registrar shall immediately upon registering a death, deliver without charge to any person requiring the same for the purpose of burial or other disposition of a body, a burial permit in the prescribed form. R.S.O. 1927, c. 78, s. 36. Burial permit.

**38.**—(1) When upon proper representation to the Registrar-General, he is of opinion that in any section of Ontario, Sub-registrars.

the registration of deaths for the purpose of burial would be facilitated he may appoint a sub-registrar for the special purpose of issuing a burial permit upon the payment by the applicant of a fee of twenty-five cents.

Registration  
by sub-  
registrars.

(2) The sub-registrar shall register the death upon a special form of schedule provided and shall forthwith transmit the original form to the division registrar of the division in which the death occurred for registration by him, and the sub-registrar shall make monthly returns to the Registrar-General in compliance with the provisions of section 14. R.S.O. 1927, c. 78, s. 37.

Registration  
of death of  
infant.

**39.** In the case of the death of an infant under one year of age the division registrar shall not issue a burial permit until he has ascertained the place of birth of the child, and if the birth has taken place in the division of which he is registrar, he shall not issue a burial permit until he is satisfied that the birth has been registered. R.S.O. 1927, c. 78, s. 38.

Caretaker,  
etc., not to  
allow burial  
without  
permit.

**40.—(1)** A caretaker or owner of a cemetery or burial ground, whether public or private, or a clergyman or other person having charge of a church, to which a cemetery or burial ground is attached shall not permit the interment of the body of any person in the cemetery or burial ground over which he has charge until he has received a burial permit from the proper division registrar.

Returns  
from ceme-  
teries, etc.

(2) Every such caretaker, owner, clergyman or other person shall on or before the tenth day of each month in every year transmit to the division registrar of the division in which the cemetery or burial ground is situated, a return in the prescribed form of the burials therein during the previous month up to and including the last day of the month next preceding, for subsequent transmission to the Registrar-General. R.S.O. 1927, c. 78, s. 39.

Where there  
is no care-  
taker, etc.,  
of cemetery.

**41.** Where there is no person in charge of a cemetery or burial ground the undertaker or other person in charge of the burial or other disposition of the body shall write across the face of the burial permit the words, "No person in charge," and shall append his signature thereto and shall return the burial permit so marked to the division registrar of the division in which the burial took place. R.S.O. 1927, c. 78, s. 40.

#### LATE REGISTRATIONS.

Registration  
after one  
year.

**42.** Where a birth, marriage or death has not been registered with the division registrar within one year after such birth



or death took place, or such marriage was solemnized, the birth, marriage or death shall not be registered thereafter by the division registrar, but the Registrar-General may register the same upon being furnished with the required information in the prescribed form. R.S.O. 1927, c. 78, s. 41.

#### PENALTIES AND EXPENSES.

**43.** If a division registrar neglects to make any return, as required by this Act, he shall be notified by registered letter of such neglect by the Registrar-General, and if after notification, he fails to make such return within ten days the Registrar-General may refuse to issue a certificate for the payment of the fees due to the division registrar even though the return should be made at a later date, and such division registrar shall also incur a penalty of \$50. R.S.O. 1927, c. 78, s. 42.

Default by  
division  
registrar.

**44.** Every person who wilfully makes or causes to be made a false statement touching any of the particulars required to be reported and entered under this Act shall incur a penalty of \$50, and a legally qualified medical practitioner making a false statement as to the cause of the death of any person, or representing himself as having been in attendance during the last illness of such person when in fact he has not been called in attendance until after the death of such person, shall also be subject to discipline by the Ontario Medical Council. R.S.O. 1927, c. 78, s. 43.

Making false  
statements  
for registra-  
tion.

**45.—(1)** A person required by this Act to report a birth, marriage, death or burial to the division registrar who neglects to do so shall incur a penalty not exceeding \$10.

Penalty for  
not  
reporting.

(2) If a return required by this Act to be made by more than one person is made by any one of such persons the others shall not be liable to the penalty.

Saving.

(3) Subsection 2 shall not apply to a return required to be made by a legally qualified medical practitioner. R.S.O. 1927, c. 78, s. 44.

Returns of  
medical  
practitioner.

**46.** A person guilty of an act or omission in violation of any of the provisions of this Act for which no other penalty is provided shall incur a penalty of not more than \$20. R.S.O. 1927, c. 78, s. 45.

Penalty for  
other acts  
or omissions.

**47.** The Inspector, upon being notified of any violation of this Act, shall make investigation, and where he deems it necessary, or without investigation when directed by the

Duty of  
Inspector to  
investigate.

Registrar-General, he shall institute proceedings against any person guilty of any such violation. R.S.O. 1927, c. 78, s. 46.

Penalties,—  
how  
recovered.  
Rev. Stat.,  
c. 136.

**48.** The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*. R.S.O. 1927, c. 78, s. 47.

Penalties,—  
distribution  
of.

**49.** The penalties shall be payable one moiety to the informant and one moiety to the municipality in which the offence was committed. R.S.O. 1927, c. 78, s. 48.

Time for  
commence-  
ment of  
prosecution.

**50.** Prosecutions for penalties imposed by this Act shall be commenced within one year after the offence or default. R.S.O. 1927, c. 78, s. 49.

Conduct of  
prosecutions.

**51.** Prosecutions for any penalty imposed by this Act shall be conducted by the Crown attorney when instructed by the Registrar-General. R.S.O. 1927, c. 78, s. 50.

Expenses of  
prosecution.

**52.** All expenses of prosecutions under this Act not recovered from the offender, and whether or not conviction is obtained, shall be payable by the municipality in which the offence was alleged to have been committed. R.S.O. 1927, c. 78, s. 51.

General  
regulations.

**53.** The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing the forms to be used in carrying out the provisions of this Act;
- (b) respecting the duties of division registrars and sub-registrars and the information and returns to be furnished to the Registrar-General;
- (c) for the registration of births, marriages and deaths and the issue of certificates of registration by the Registrar-General in cases not otherwise provided for in this Act;
- (d) for the registration of foundlings, illegitimate children acknowledged by the putative father or any matter or thing affecting the registration of births, marriages and deaths which is not in conflict with the provisions of this Act;
- (e) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 78, s. 52.

## FEES.

**54.**—(1) Every municipality shall pay annually, on the 1st day of February, to the division registrar thereof, a fee of twenty-five cents for each complete registration of a birth, marriage or death returned for the preceding year according to the schedules provided under this Act, on the presentation of the certificate of the Registrar-General to the treasurer of the municipality; but a city or town containing more than ten thousand inhabitants may by by-law limit the aggregate compensation allowed to the division registrar.

(2) Fees shall be paid at the rates set forth in this section to every division registrar appointed by the Lieutenant-Governor in Council for any registration division not included within any municipality out of any money appropriated for that purpose. R.S.O. 1927, c. 78, s. 53.

*11. KING'S PRINTER.*

## CHAPTER 89.

## The King's Printer Act.

King's  
Printer.

1. There shall be an officer in the public service at the seat of Government at Toronto to be known as the King's Printer, who shall be appointed by the Lieutenant-Governor in Council, and shall hold office during pleasure. R.S.O. 1927, c. 79, s. 1.

Duties of  
King's  
Printer.

2. In addition to the duties heretofore performed by the King's Printer, he shall,—

- (a) act as accountant to the Legislative Assembly;
- (b) purchase supplies for the various departments of the Government at Toronto whenever directed by any general or special order of the Lieutenant-Governor in Council;
- (c) inspect and test all paper supplies to the Legislative Assembly or to any of the departments of the Government at Toronto under contract or otherwise, and see that in quality, weight and price the paper so supplied conforms to the requirements and specifications contained in the contract, instrument or instructions under which the same is purchased;
- (d) see that supplies of stationery and other goods furnished to the departments of the Government at Toronto are of standard quality;
- (e) use all means in his power to prevent extravagance or waste in the purchase of supplies from his office;
- (f) perform such other duties as may be required by the Lieutenant-Governor in Council. R.S.O. 1927, c. 79, s. 2.



## 12. PUBLIC RECORDS AND ARCHIVES.

## CHAPTER 90.

## The Archives Act.

1. The Bureau of Archives at the seat of Government at <sup>Department.</sup> Toronto, instituted in the year 1903, shall be known as the Department of Public Records and Archives of Ontario hereinafter called the "Department." R.S.O. 1927, c. 80, s. 1.

2.—(1) There shall be an officer in charge of the Department to be known as the Archivist of Ontario, hereinafter referred to as "the Archivist," who shall be appointed by the Lieutenant-Governor in Council and who shall hold office during pleasure and the said officer shall be charged with the administration of this Act under the direction of the member of the Executive Council to whom the charge of the Department may be from time to time assigned. <sup>Provincial Archivist,—appointment of</sup>

(2) The Archivist shall have the rank of a deputy head of a department within the meaning of *The Public Service Act* and shall in relation to the Department possess all the powers and perform the duties of a deputy head of a department. <sup>Powers and duties of Archivist. Rev. Stat., c. 15.</sup> R.S.O. 1927, c. 80, s. 2.

3. Subject to the regulations, all original documents, <sup>Custody of original documents.</sup> parchments, manuscripts, papers, records and other matters in the executive and administrative departments of the Government or of the Assembly, or of any commission, office or branch of the public service shall be delivered to the Department for safe keeping and custody within twenty years from the date on which such matters cease to be in current use. R.S.O. 1927, c. 80, s. 3.

4. The Archivist is authorized and directed to receive and grant discharges for all such matters as shall be transferred to the Department under the provisions of this Act and the Department shall thereafter be responsible for the safe keeping of the matters so transferred. <sup>Responsibility of Department.</sup> R.S.O. 1927, c. 80, s. 4.

5. The objects of the Department shall be,—

<sup>Objects of Department.</sup>

- (a) the classification, safe keeping, indexing and cataloguing of all matters transferred to the Department under the provisions of section 3;
- (b) the discovery, collection and preservation of material having any bearing upon the history of Ontario wherever obtainable;
- (c) the copying and printing of important public documents relating to the legislative or general history of Ontario;
- (d) the collecting of all documents having in any sense a bearing upon the political or social history of Ontario and upon its agricultural, industrial, commercial and financial development;
- (e) the collecting of municipal, school and church records;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, regimental muster rolls and other matters of general or local interest historically in Ontario;
- (g) the collection and preservation of information respecting the early settlers of Ontario including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated, home and social life;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life;
- (i) the conducting of researches with a view to preserving the memory of pioneer settlers in Ontario and of their early exploits and the part taken by them in opening up and developing the Province. R.S.O. 1927, c. 80, s. 5.

Preservation  
of official  
documents.

**6.** Subject to the regulations, no official document, paper, pamphlet or report in the possession of any department or branch of the public service or of the Legislative Assembly shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. R.S.O. 1927, c. 80, s. 6.

7. A copy of any original document in the custody of the Archivist, certified under his hand and seal to be a true copy, shall be *prima facie* evidence of the authenticity and correctness of such document. R.S.O. 1927, c. 80, s. 7.

Certified  
copies.

8. The Lieutenant-Governor in Council may make regulations,—

- (a) respecting the administration of the Department of Archives and the duties of the Archivist and the officers, clerks and servants employed in the Department;
- (b) prescribing the matters which shall be transferred to the Department under the provisions of this Act and extending or reducing the period which shall elapse before any such matters are transferred to the Department;
- (c) for the classification of archives and other matters in the Department and the preparation of proper calendars, catalogues and indexes for the purpose of making such archives and other matters accessible for purposes of official, scientific and historical research;
- (d) directing the manner in which documents, papers, pamphlets or reports in the office of any member of the Executive Council or in any department or branch of the public service or the Legislative Assembly shall be disposed of from time to time and the class of documents, papers, pamphlets or reports which shall be deemed to be public archives. R.S.O. 1927, c. 80, s. 8.

9. Nothing in this Act contained shall be taken or deemed to authorize the destruction or other disposition of any official document, paper, map, plan, report, memorandum or other matter in contravention of any order of the Legislative Assembly or of any express provision in any general or special Act of the Legislature. R.S.O. 1927, c. 80, s. 9.

Effect of  
this Act.

*13. RESEARCH.*

## CHAPTER 91.

## The Research Foundation Act.

Establish-  
ment of  
Foundation.

**1.** There shall be established a corporation to be known as the Ontario Research Foundation, hereinafter called the "Foundation" which shall consist of such persons as may from time to time be designated by the Lieutenant-Governor in Council to be members of the Foundation. 1928, c. 57, s. 2.

Objects of  
Foundation.

**2.** The objects of the Foundation shall be the carrying on of research work and investigations having for their purposes,—

- (a) the improvement and development of manufacturing and other industries by the introduction of advanced methods and processes;
- (b) the discovery and better development of the natural resources of the Province and the discovery and utilization of the by-products of any processes in treating or otherwise dealing with the mineral, timber and other resources of the Province;
- (c) the development and improvement of methods in the agricultural industry and the betterment, welfare and progress of farm life;
- (d) scientific research and investigation for the mitigation and abolition of disease in animal or vegetable life and the destruction of insect or parasitic pests;
- (e) generally the carrying out, with the approval or under the direction of the Lieutenant-Governor in Council, of any other research work or investigation which may be deemed expedient. 1928, c. 57, s. 3.

Applications  
for investi-  
gation of  
problems.

**3.** Subject to any general regulations in that behalf which may be made by the Lieutenant-Governor in Council, the



Foundation may receive applications from any person or from any group of persons for the investigation and solution by the Foundation of any problems which present themselves in any manufacturing, mining, labouring or other industrial process, upon such terms as to the payment of the expenses of any such work as may be agreed upon in accordance with the regulations. 1928, c. 57, s. 4.

4.—(1) The Lieutenant-Governor in Council may appoint one of the members to be the chairman of the Foundation and another member to be vice-chairman. 1928, c. 57, s. 5 (1).

Chairman and vice-chairman.

(2) The chairman shall preside at all meetings of the Foundation and shall have the control and direction of the administration of the Foundation and of the staff of the Foundation. 1928, c. 57, s. 5 (2); 1929, c. 86, s. 2 (1).

Powers of chairman.

(3) In the absence of the chairman, or at his request, the vice-chairman shall preside at the meetings of the Foundation and shall have and may exercise the powers of the chairman. 1928, c. 57, s. 5 (3).

Powers of vice-chairman.

(4) The Lieutenant-Governor in Council may appoint from among the members of the Foundation not more than twenty-five persons to constitute an advisory board to act with the chairman, vice-chairman and executive officers of the Foundation. 1929, c. 86, s. 2 (2).

Advisory board, appointment of.

5.—(1) The Foundation may enter into an agreement in writing with such persons as may desire to become subscribers to the Foundation for receiving from such persons subscriptions of money in sums of \$100, or multiples thereof, until the sum of \$2,500,000 has been subscribed. 1928, c. 57, s. 6 (1); 1929, c. 86, s. 3.

Subscribers to Foundation.

(2) The subscribers to the Foundation shall be entitled to receive, from time to time, reports of the work carried on by the Foundation and to make suggestions from time to time as to the nature of the research work and investigations to be pursued by the Foundation and the methods to be used therein.

Report of work to be furnished to subscribers.

(3) Twenty per centum of the subscription shall be paid at the time of subscribing and twenty per centum in each of the four years next following the subscription, upon a day to be named by the Foundation. 1928, c. 57, s. 6 (2, 3).

Time for payment of subscriptions.

Payment up  
of sub-  
scriptions  
and contri-  
butions by  
Govern-  
ment.

Amounts to  
be sub-  
scribed by  
Province.

Power to  
expropriate  
land and  
erect  
buildings.

Meetings.

Annual  
report.

Application  
of Rev.  
Stat., c. 54.

Right to  
acquire  
patents, etc.

**6.** So soon as the chairman shall certify in writing to the Lieutenant-Governor in Council that the sum of \$1,000,000 or upwards has been subscribed and the sum of \$200,000 has been paid thereon, the Treasurer of Ontario may pay to the Foundation the sum of \$200,000 out of any moneys appropriated by the Legislature for that purpose and thereafter on the 30th day of April and the 31st day of October of each fiscal year the Treasurer of Ontario may pay to the Foundation a sum equivalent to the amount subscribed by individuals and corporations to the Foundation during that period of the year as certified by the chairman. 1928, c. 57, s. 7; 1929, c. 86, s. 4.

**7.** The Foundation may acquire by purchase or lease, or may enter upon, take and use without the consent of the owner thereof, any land and buildings which may be deemed suitable for the purposes of the Foundation and may erect buildings, acquire and install machinery and equipment and purchase all such instruments, materials and appliances and other matters and things as may be deemed necessary, provided that such lands and buildings so purchased, leased or taken, and the plants and other buildings to be erected by the Foundation shall be first approved by the Lieutenant-Governor in Council. 1928, c. 57, s. 8.

**8.** The Foundation shall hold meetings from time to time for the purpose of informing the subscribers and the public of the work being carried on by the Foundation and as to any new development, industrial, agricultural or scientific research in which the Foundation may be interested and shall make an annual report of its proceedings, including a statement of the receipts and expenditures of the Foundation in such form as the Lieutenant-Governor in Council may require and such report shall be laid before the Legislative Assembly at its first meeting thereafter. 1928, c. 57, s. 9.

**9.** Whenever the Foundation exercises the power to enter upon, take or use lands without the consent of the owner thereof, *The Public Works Act* shall apply *mutatis mutandis* and the procedure shall be, as nearly as may be, that provided in *The Public Works Act* where land is taken for the use of the Province. 1928, c. 57, s. 10.

**10.** The Foundation may apply for, or acquire by purchase, assignment or otherwise, rights in any patent of invention for industrial or other processes of any nature or kind whatsoever, and may sell and dispose of the same, or any interest therein, and grant or assign any rights which may be acquired by the Foundation thereunder. 1929, c. 86, s. 5, *part.*

**11.** The real and personal property, business and income of the Foundation shall not be subject to assessment or taxation for municipal or provincial purposes. 1929, c. 86, s. 5, *part*. Property  
not liable  
to assess-  
ment.

**12.** The Lieutenant-Governor in Council may make regulations for the better carrying out of the provisions of this Act and the powers and duties of the Foundation as herein set out shall be exercised subject to such regulations. 1928, c. 57, s. 11. Regulations.

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*14. FLORAL EMBLEM.*

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CHAPTER 92.

## The Floral Emblem Act.

Floral  
emblem of  
Ontario.

1. The flower known botanically as the “trillium grandiflorum” and popularly known as the “white trillium” shall be adopted as and deemed to be the floral emblem of the Province of Ontario. 1937, c. 26, s. 2.

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## SECTION VI.

### PUBLIC PARKS.

#### CHAPTER 93.

#### The Niagara Parks Act.

1. In this Act,—

Interpre-  
tation.

(a) "Commission" shall mean Niagara Parks Commis-  
sion; "Com-  
mission."

(b) "Parks" shall mean and include Queen Victoria "Parks."  
Niagara Falls Park as heretofore established,  
Butler's Burying Ground and Queenston Heights  
Park and all other lands and lands covered with  
water, including roads and boulevards vested in or  
placed under the control of the Commission. R.S.O.  
1927, c. 81, s. 1.

#### PART I.

#### NIAGARA PARKS COMMISSION.

2.—(1) The body corporate heretofore constituted by the  
name of "The Commissioners for the Queen Victoria Niagara  
Falls Park" is continued and shall hereafter be known as  
"The Niagara Parks Commission" hereinafter called the  
"Commission." Niagara  
Parks Com-  
mission.

(2) The members of the Commission shall be not less than Term of  
office.  
five in number, to be appointed by the Lieutenant-Governor  
in Council and shall be styled "commissioners" and hold office  
during pleasure.

(3) The commissioners shall receive their actual disburse-  
ments but no other compensation. R.S.O. 1927, c. 81, s. 2. Remunera-  
tion.

Appointment of members.

(4) Any member of the Legislative Assembly may be appointed as a member of the Commission.

Payment of member of Assembly acting on Commission.

Rev. Stat., c. 12.

(5) Notwithstanding anything in *The Legislative Assembly Act* the appointment of the chairman or of any other member of the Commission if a member of the Assembly shall not be avoided by reason of the payment to him, or the acceptance by him of any allowance, expenses or disbursements under this Act, nor shall he thereby vacate or forfeit his seat or incur any other penalties imposed by the said Act for sitting and voting as a member of the Assembly. 1935, c. 47, s. 2.

Rights and powers of Commission.

3. All real and personal property and all rights, powers and privileges heretofore vested in and exercisable by the commissioners for the Queen Victoria Niagara Falls Park are hereby vested in and shall be exercisable by the Niagara Parks Commission. R.S.O. 1927, c. 81, s. 3.

Powers as to acquiring lands, highways, etc.

4.—(1) The Commission, with the consent of the Lieutenant-Governor in Council, may enter upon, take, use and acquire such lands, including a right or interest in, and an easement over land, and also including highways vested in the corporation of any municipality, tenements and rights as they may consider expedient.

Councils authorized to transfer highway to commissioners.

(2) The municipal council of any municipality may convey to the Commission for a real or nominal consideration, any highway, lands, tenements or rights vested in the municipality which the Lieutenant-Governor in Council authorizes the Commission to acquire, and this subsection shall be construed so as to include any lands (including highways vested in the corporation of any municipality), tenements or rights heretofore conveyed to the Commission, consented to, or which may hereafter be consented to, by the Lieutenant-Governor in Council.

Restriction on use of highways acquired, etc., by the Commission.

(3) A highway opened or widened by the Commission shall not be used or occupied as a stand by vehicles kept for hire, or by booths or stands for the sale of newspapers or photographs, or for the carrying on of a refreshment business or the like.

Agreement as to maintenance and repair of roads.

(4) The corporation of any municipality may enter into an agreement with the Commission for the construction or the maintenance or repair by the Commission of any road within the limits of the municipality, or for the payment by the corporation of the municipality of any part of the cost of construction or of the maintenance or repair of any

road constructed or acquired by the Commission within the limits of the municipality, and this subsection shall be read so as to include any agreement heretofore or hereafter made. R.S.O. 1927, c. 81, s. 4.

Procedure to  
acquire land,  
etc.

5. Notwithstanding anything contained in any general or special Act, the Lieutenant-Governor in Council may by Order-in-Council vest any highway in any municipality in the Commission and thereafter the Commission shall have exclusive jurisdiction over the said highway. R.S.O. 1927, c. 81, s. 5.

Order-in-  
Council  
vesting high-  
ways in  
Commission.

6.—(1) Whenever the Commission is authorized by this Act or by the Lieutenant-Governor in Council to enter upon, take, use, or acquire any lands, tenements or rights under the provisions of this Act, the Commission in respect thereof shall have the powers and shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario, and the provisions of that Act shall *mutatis mutandis* apply.

Application  
of  
Rev. Stat.  
c. 54.

(2) The compulsory powers conferred by this Act shall extend to land, works, rights, powers, privileges and property notwithstanding that the same are or may be deemed to be devoted to the public use or that the owner thereof possesses the power to take lands compulsorily. R.S.O. 1927, c. 81, s. 6.

To what  
extended.

7.—(1) In addition to the powers conferred upon the Commission under any other provisions of this Act the Commission, with the approval of the Lieutenant-Governor in Council, may from time to time borrow money to meet any indebtedness of the Commission accruing due, or for the purchasing or otherwise acquiring real or personal property, or making improvements, or for any other purpose of the Commission and may issue, bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such interest as the Commission may deem proper.

Commission  
authorized  
to issue  
bonds,  
debentures,  
etc.

(2) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for the purposes aforesaid.

Guarantee-  
ing bonds.

(3) The form of guaranty and the manner of its execution shall be determined by the Lieutenant-Governor in Council. R.S.O. 1927, c. 81, s. 7.

Form of  
guaranty.

Powers of  
Commission.

8. Subject to any direction of the Lieutenant-Governor in Council, the Commission may,—

- (a) construct and operate inclined planes and hydraulic or other lifts, to be worked by any power, acquire and operate busses, coaches and other vehicles for the accommodation of the public, and build and operate boats or vessels to be used in connection with the Park;
- (b) pull down all houses and other erections and buildings on lands acquired and purchased by the authority of this Act, or such of them or such part thereof as it may deem proper to be pulled down, and level and clear the ground whereon the same stand, in such manner as it may deem proper, and sell the materials of the houses and other buildings to be taken down and removed, and the money to be produced by the sale thereof, after deducting expenses, and also the rents and profits to which they may be entitled meantime, shall be applied in carrying out the purposes of this Act;
- (c) lay out, plant and enclose the Parks in such manner as they think fit, and improve and develop the same in accordance with the objects of this Act;
- (d) take and collect tolls for the use of constructions, appliances, vessels, or works required to afford facilities to visitors to reach and view the points of interest within the Parks, and involving the expenditure of money in construction and maintenance, as well as for services to be rendered for the convenience or accommodation of visitors;
- (e) make orders and regulations for opening and closing the gates and entrances of the Parks at such hours as they think fit, but so as not to interfere with or affect an agreement heretofore entered into between the Commission and the Canada Southern Railway Company; R.S.O. 1927, c. 81, s. 8.
- (f) erect, construct or acquire by purchase, lease or otherwise, and maintain and operate a bridge or bridges over the Niagara River and for that purpose enter into agreements or contracts with any corporation or individual or with any corporate or other authority having control of the territory beyond the International Boundary Line required



for the purpose of such bridge or bridges, or enter into and carry out any agreement or arrangement for the joint construction, maintenance and operation by the Commission and such authority of any such bridge or bridges. 1929, c. 27, s. 2.

**9.** All works or land whereon any expenditure is authorized in pursuance of this Act shall be deemed and are declared to be public works of Ontario notwithstanding that they are in the care or charge of the Commission. R.S.O. 1927, c. 81, s. 9. Parks to be a public work.

**10.**—(1) The Commission may from time to time with the approval of the Lieutenant-Governor in Council make regulations,— Regulations of Commission.

- (a) prescribing the tariff of tolls or payments for the use of works, vessels or services in the Parks;
- (b) governing the conduct of visitors in the Parks; R.S.O. 1927, c. 81, s. 10 (1), cls. (a, b).
- (c) governing and regulating vehicular and pedestrian traffic in the Parks and on any highway, road, boulevard and public place vested in the Commission and over which it has control, and for prohibiting such traffic by means of any particular class or classes of vehicles or except upon such terms and conditions as the Commission may prescribe; 1933, c. 59, s. 5 (1).
- (d) fixing the hours during which the Parks or any building or property in the Parks shall be open to the public;
- (e) providing for the use, government, control and management of the Parks and for the protection and preservation of all works in the same from injury and of the trees, shrubs, walks, seats, gates, fences and palings and all other parts thereof;
- (f) for the exclusion of improper persons from the Parks; and
- (g) for imposing penalties not exceeding \$100 for any breach of any such by-law or regulation. R.S.O. 1927, c. 81, s. 10 (1), cls. (c, f).

Offences  
punishable  
under  
Rev. Stat.,  
c. 136.

(2) Any offence against any such by-law shall be punishable under *The Summary Convictions Act*, and the penalties recoverable under this section shall be payable to the Commission. R.S.O. 1927, c. 81, s. 10 (2).

Regulations  
as to sign-  
boards, etc.

**11.**—(1) The Lieutenant-Governor in Council, upon the recommendation of the Commission, may make regulations prohibiting or regulating the erection of signs and sign-boards and the posting or painting of signs or notices and the exposing of any advertising device upon, or within one-quarter of a mile from any park, boulevard, road, roadway or other land vested in or controlled by the Commission.

Penalty.

(2) Any person contravening any such regulations shall incur a penalty of not less than \$1 nor more than \$100, recoverable under *The Summary Convictions Act*, and every such penalty shall be paid over to the Commission. R.S.O. 1927, c. 81, s. 11.

Rev. Stat.,  
c. 136.

Grounds  
open to  
public.

**12.** The Parks shall be open to the public, subject to any rules and regulations approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 81, s. 12; 1933, c. 59, s. 5 (2).

Where high-  
ways vested  
in Com-  
mission.

Application  
of Rev. Stat.,  
c. 289.

**13.**—(1) *The Public Vehicle Act* shall apply to the highways, roads, boulevards and public places vested in the Commission and over which the Commission has control except that as to such highways, roads, boulevards and public places the Commission shall be deemed to be substituted for the Department of Highways and for the Lieutenant-Governor in Council, and the licenses, fees and tolls collected by the Commission and the penalties imposed under the said Act or under any regulations made thereunder, shall be payable to the Commission and shall be accounted for and dealt with in the manner provided by section 21 and the following sections of this Act.

Regulations.

(2) The regulations made by the Commission under the authority of subsection 1 shall be subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1927, c. 81, s. 13.

Park officers.

**14.**—(1) The Commission may appoint such officers as may be required for the superintendence and management of the Parks, and may also appoint keepers and other officers to preserve order in the Parks, and may dismiss any persons so appointed.

Appoint-  
ment, etc.

(2) Such appointments or dismissals shall be subject to the approval of the Lieutenant-Governor in Council.

(3) The salaries of such officers shall be payable out of <sup>Salaries.</sup> any funds in the hands of the Commission.

(4) The Commission may employ gardeners and workmen <sup>Gardeners and workmen.</sup> as they may deem necessary, and may dismiss or dispense with the services of such persons, subject to any directions of the Lieutenant-Governor in Council. R.S.O. 1927, c. 81, s. 14.

**15.** The Commission shall cause books to be provided <sup>Books of account.</sup> and true and regular accounts to be entered therein of all money received and paid, and of the several purposes for which the same was received and paid, and such books shall at all times be open to the inspection of any of the commissioners, and of the Treasurer of Ontario, and of any person appointed by the Commission or Treasurer for that purpose, and of any other person appointed by the Lieutenant-Governor, and any commissioner and any such person may take copies of, or extracts from such books. R.S.O. 1927, c. 81, s. 15.

**16.** Any person entrusted by the Commission with the <sup>Security by officers.</sup> custody or control of money, by virtue of his employment, shall give security in the manner and form provided by <sup>Rev. Stat., c. 16.</sup> *The Public Officers Act*. R.S.O. 1927, c. 81, s. 16.

**17.—**(1) The Commission shall make an annual report for <sup>Annual report and accounts.</sup> the information of the Legislature, setting forth the receipts and expenditure of the year, and such other matters as may appear to them to be of public interest in relation to the Parks, or as the Lieutenant-Governor in Council may direct.

(2) Sections 10, and 28 to 30 of *The Audit Act* shall apply <sup>Application of Rev. Stat., c. 24.</sup> to the accounts of the commissioners in respect of receipts and expenditures. R.S.O. 1927, c. 81, s. 17.

**18.—**(1) The Commission and the corporation of any <sup>Agreements with municipalities as to improvements.</sup> municipality in which lands vested in the Commission are situate or which adjoins such lands may enter into agreements for,—

- (a) establishing, laying out, opening, grading, altering the grade of, extending, widening, altering, diverting, constructing, reconstructing, paving or otherwise improving a highway in the municipality and acquiring by the corporation of lands for any such purpose;
- (b) maintaining and repairing any highway in the municipality;

- (c) vesting in the Commission ownership of or jurisdiction and control over any lands acquired under or any highway described in any such agreement;
- (d) apportioning between the Commission and the corporation the cost of any work undertaken under any such agreement;
- (e) payment of the whole or any part of the cost of any work undertaken under any such agreement and providing for payment either in one sum or by annual or other instalments or otherwise as the agreement may stipulate.

Compensation where lands acquired or injured to be paid by municipality.

(2) Every agreement entered into under the authority of subsection 1 shall provide that the cost of any lands acquired pursuant thereto and all compensation payable in respect to such acquisition or for injurious affection to lands by reason of any work undertaken under any such agreement shall solely be borne and paid by the corporation of the municipality entering into the agreement.

Local improvement works.

(3) The Commission and the corporation of any municipality in which lands vested in the Commission are situate or which or any part of which adjoins or is within three miles of such lands may enter into agreements for the undertaking by the corporation in, upon, under, through, across, along or for any street or highway vested in or under the jurisdiction and control of the Commission of any work of any of the characters or descriptions mentioned in *The Local Improvement Act* as work which may be undertaken as a local improvement, including the acquisition of lands and the use of the same for establishing, laying out, opening, grading, altering the grade of, extending, widening, altering, diverting or otherwise improving a highway vested or to be vested in the Commission.

Rev. Stat., c. 269.

Work may be undertaken as local improvement.

(4) Any work undertaken by the corporation of a municipality pursuant to the provisions of any agreement entered into under subsection 3 may by the corporation be undertaken as a local improvement under *The Local Improvement Act* and according to the provisions thereof, notwithstanding that the street or highway is not vested in such corporation or that its council has no jurisdiction or control thereover.

Payment for work.

(5) In any agreement entered into under subsection 3 the Commission may agree to contribute such sum or sums towards the cost of any work undertaken thereunder and either in cash or by annual or other instalment or other-



wise, but nothing in this section or in any agreement contained nor any such contribution shall in any way render liable to assessment under *The Local Improvement Act* for the cost of any such work any of the lands vested in the Commission whether abutting directly on the work or otherwise, which said land shall continue to remain exempt from assessment and taxation.

(6) Every agreement entered into under subsection 3 shall provide that the corporation of the municipality entering into the same shall solely be responsible for any injury or damage resulting from or by reason of the execution of any work undertaken thereunder or from the existence of such work during the time of its construction and after the completion or from non-repair of the same and for all claims, demands, actions, suits, proceedings, costs and damages resulting therefrom.

(7) It shall not be necessary that any agreement entered into under this section be submitted to or receive the assent of the electors of the municipality, or that any by-law or by-laws of the corporation of such municipality for the issue of debentures to defray the cost or share of the cost of lands acquired or works undertaken under any such agreement shall be submitted to or receive the said assent.

(8) Every agreement heretofore entered into between the Commission and the corporation of a municipality with the approval of the Lieutenant-Governor in Council for any of the purposes mentioned in this section shall be and shall be deemed to have been legal, valid and binding upon the Commission and upon such corporation and the rate-payers thereof and the provisions of subsection 7 shall apply thereto.

(9) No agreement hereafter entered into under this section shall be effective or binding until the same is approved by the Lieutenant-Governor in Council, and upon such approval being obtained the agreement shall be legal, valid and binding upon the Commission and upon the corporation of the municipality entering into the same and the rate-payers thereof and shall not be open to question in any court. 1931, c. 22, s. 2.

**19.** The Commission shall not carry on or allow to be carried on in the Parks or upon any of the lands so acquired by them, any noisome or offensive trade or business whatever. R.S.O. 1927, c. 81, s. 19.

Collection  
of revenues  
and rentals.

**20.** Subject to any direction or order of the Lieutenant-Governor in Council, and to the provisions of this Act, the Commission may continue to collect the revenues and rentals payable or collectible under the several agreements made by and between the Commission acting on its own behalf and with the approval of the Government of Ontario and the Canadian Niagara Power Company, the Ontario Power Company of Niagara Falls and the Electrical Development Company of Ontario, Limited. R.S.O. 1927, c. 81, s. 20.

Application  
of revenues  
and rentals.

**21.** The revenues and rentals mentioned in section 20 and the revenue received from the other sources authorized by this Act shall be applied as follows:

1. To the payment half-yearly of the interest payable on the debentures issued by the Commission;
2. To provide for the retirement of the said debentures at maturity by a sinking fund or otherwise according to the terms of the debentures issued by the Commission hereunder;
3. To the necessary outgoing expenses of all works necessary to the preservation, improvement and maintenance of the Parks, and to the payment of the salaries of the officers and others employed by the Commission, and other incidental expenses;

and all revenues and rentals which are not required for such purposes shall on or before the 1st day of July in each year be paid over by the Commission to the Treasurer of Ontario, and shall form part of the Consolidated Revenue Fund of Ontario. R.S.O. 1927, c. 81, s. 21.

Approval of  
estimates.

**22.** Before any expenditure on capital account is made out of such revenues and rentals in respect of any works within the Parks, or on premises under the control of the Commission, the estimates therefor shall be submitted to and approved of by the Lieutenant-Governor in Council. R.S.O. 1927, c. 81, s. 22.

Application  
of sinking  
fund.

**23.** The annual sums for the sinking fund shall be remitted by the Commission to the Treasurer of Ontario by half-yearly payments in such manner as the Lieutenant-Governor in Council may direct and interest to be calculated at the rate of four per centum per annum and compounded half-yearly shall be allowed from the 1st day of January, 1918, upon all sums so received prior to the said date and upon all sums which have been since the said date or may hereafter be so received. R.S.O. 1927, c. 81, s. 23.

## PART II.

## QUEEN VICTORIA PARK.

**24.**—(1) The land in the vicinity of Niagara Falls selected by the Commission and approved by the Lieutenant-Governor in Council, whereof the boundaries as surveyed upon the ground are shown by a red verge line marked upon a map, whereof copies duly certified and authenticated are filed and deposited in the office of the registrar of the County of Welland and in the Department of Lands and Forests, excepting thereout the strip of land lying between Range No. 6 as laid down in the plan of the City of the Falls, in the Township of Stamford, on the north, and by Street's mill road and the land held by the Carmelite Monastery on the south, the easterly boundary whereof is at a distance of one hundred and thirty feet east of the centre line of the Canada Southern Railway, and the westerly boundary whereof is the westerly line of the Park as marked upon the map, shall constitute the "Queen Victoria Park," heretofore known as the "Queen Victoria Niagara Falls Park," and shall be vested in the corporation as trustees for Ontario. Boundaries  
of Park.

(2) Until the municipal corporation otherwise enacts by by-law, passed in compliance with section 495 of *The Municipal Act*, Murray street shall be a public entrance to the Park for visitors in carriages or on horses or on foot, and Robinson street shall be a public entrance to the Park for visitors on foot. Entrances.  
Rev. Stat.,  
c. 266. R.S.O. 1927, c. 81, s. 24.

**25.** The land lying along the bank of the Niagara river; and not included in the original survey of lots laid out in the Townships of Stamford, Niagara, Bertie and Willoughby which have by order of the Lieutenant-Governor in Council been vested in the Commission to be held for the purposes of the Park, and commonly known as the "Chain Reservation," shall form part of the Park and be subject to the control of the Commission as other lands within the boundaries of the Park. Lands along  
river bank. R.S.O. 1927, c. 81, s. 25.

**26.** The Lieutenant-Governor in Council may also vest in the Commission to be held for the purposes of the Park and subject to any conditions which may be imposed by Order-in-Council, any portions of the foreshores or bed of the River Niagara or land covered with water in the River Niagara, which lie in front of the land vested in the Commission by sections 24 and 25, and which at the time of the Order-in-Council are the property of Ontario, and the foreshores, bed Foreshores  
and part of  
bed of  
Niagara  
River.

of the river and lands so vested shall thenceforth form part of the Park and be subject to the control of the Commission as other park lands. R.S.O. 1927, c. 81, s. 26.

Rights of St.  
Catharines,  
Thorold &  
Niagara  
Falls Road  
Co. vested  
in  
Commission.

**27.**—(1) The rights, title, possession and franchises which were held and exercised by the St. Catharines, Thorold and Niagara Falls Road Company, or by the persons having the title, interest and possessory rights thereof in respect to that portion of the St. Catharines, Thorold and Niagara Falls road, between the Table Rock and Niagara Falls Suspension Bridge on lot 92 of Stamford, are also vested in the Commission.

Tolls.

(2) All rights to take and collect tolls, as well as the public rights in the portion of the St. Catharines, Thorold and Niagara Falls road, within the limits of the Park, as shown upon the plan, are extinguished. R.S.O. 1927, c. 81, s. 27.

Power to  
construct  
street rail-  
way.

**28.** The Commission shall have power to construct and operate a street railway over such road, and may build the same to any points or lands vested in the Commission, and tolls on any such railway may be charged as provided by sections 8 and 10. R.S.O. 1927, c. 81, s. 28.

Powers of  
expropria-  
tion.

**29.** The Commission shall have power to expropriate, in accordance with section 6, the interest of any person in any land lying between the river and the road built on the Chain Reservation and vested in the Commission under the authority of this or any other Act. R.S.O. 1927, c. 81, s. 29.

Operating  
cars across  
the Clifton  
Suspension  
Bridge.

**30.**—(1) The Commission may empower\* the Clifton Suspension Bridge Company to operate their cars by any power, except steam, to and from their bridge across the Chain Reservation, subject to any order of the Board of Railway Commissioners of Canada in that behalf, and subject to the rights, if any, of the Niagara Falls Park and River Railway Company, and to the terms of any agreement made with such company.

Agreement  
heretofore  
made.

(2) Any agreement between the Commission and the Clifton Suspension Bridge Company heretofore made which, if made hereafter would be authorized by this section, is confirmed as if made after the passing of this Act. R.S.O. 1927, c. 81, s. 30.

Granting  
rights over  
lands to  
bridge  
companies.

**31.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may, upon terms to be agreed on, grant to the Clifton Suspension Bridge Company, or any other duly incorporated bridge company, any rights over or



in respect of lands held by the Commission which may be required for the purposes of building any new bridge over the Niagara River, or of confirming the present occupation of land by any bridge company now existing, but this shall not authorize the granting of any rights for the purpose in this section mentioned through the lands vested in the Commission by section 24. R.S.O. 1927, c. 81, s. 31. Exception.

**32.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may grant to the Clifton Suspension Bridge Company a strip of land from the Chain Reservation along the Niagara River and abutting the land in occupation of the company. R.S.O. 1927, c. 81, s. 32. Grant of strip to Clifton Suspension Bridge Company.

**33.** The Commission, with the approval of the Lieutenant-Governor in Council, may enter into an agreement or agreements with any person or corporation to take water from the Niagara river or from the Niagara and Welland rivers at certain points within or without the Park for the purposes of enabling such person or corporation to generate with-in or without the Park electricity, pneumatic, hydraulic or other power, conducting and discharging such water through and across the Park or otherwise, in such manner, for such rental, and upon such terms and conditions as may be embodied in the agreement, and as may appear to the Lieutenant-Governor in Council to be in the public interest, including provisions for the removal or demolition of any houses, buildings or structures, and the re-erection of the same, or the erection of other houses, buildings or structures instead thereof; but no such agreement shall be operative unless and until ratified and confirmed by resolution of the Assembly. R.S.O. 1927, c. 81, s. 33. Agreements with other companies.

### PART III.

#### BUTLER'S BURYING GROUND.

**34.—(1)** The Commission shall have power to acquire the land set apart as a burying ground wherein the remains of Colonel John Butler and other officers and men of the corps known as Butler's Rangers were interred, and described as,— Power to acquire Butler's Burying Ground.

All that certain parcel or tract of land situate in the Township of Niagara, in the County of Lincoln, containing two rods and thirty-six perches, more or less, and being part of a certain tract of land containing one hundred and fifteen acres, more or less, granted by patent from the Crown, bearing date the 5th day of February, one thousand eight hun-

dred and three, to one Andrew Butler, gentleman, and described as follows: Commencing in survey at the distance of eighty-six chains from what is called the mile tree, on the Garrison Line, on a course bearing north seventeen degrees west, and which said two rods and thirty-six perches are butted and bounded or may be otherwise known as follows, that is to say: commencing at a stone monument marked G.Y., at the southeast angle of the graveyard, thence north eight degrees forty minutes east two chains, thence north forty-nine degrees west along the bottom of the hill two chains, thence south seventy-one degrees west one chain seventeen links, thence south ten degrees west three chains fifty links, thence north seventy degrees east one chain sixty-one links to the place of beginning.

Idem.

(2) Where the boundaries of such land have become obliterated the Commission shall have power to acquire such parcels of land as they shall determine with the aid of an Ontario land surveyor to be identical, or as nearly as may be identical, with such burying ground.

And road-ways.

(3) The Commission shall have power to acquire roadways not exceeding forty feet in width from any of the roads in the neighbourhood of the burying ground.

Title.

(4) Upon acquiring such land, or any part thereof, from any person now in possession of the same or of any part thereof, claiming title by prescription or by conveyance from a person claiming title by prescription, and showing such title to the satisfaction of the Commission, a valid title to such land shall be vested in the Commission.

Other adjacent lands.

(5) With the consent of the Lieutenant-Governor in Council, the Commission may acquire other adjacent land.

General powers in relation thereto.

(6) The Commission in respect of such land and ways, shall have powers for the acquisition, management, control and improvement thereof similar to those conferred by Part II. R.S.O. 1927, c. 81, s. 34.

Rights of interment not affected.

**35.** Nothing in section 34 shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there interred, but, subject to the provisions of this section, the Commission shall have the right to enter upon, put in order, maintain and keep in repair such burying ground. R.S.O. 1927, c. 81, s. 35.

## PART IV.

DRUMMOND HILL BURYING GROUND AND LUNDY'S LANE  
BATTLEFIELD AND CEMETERY.

**36.** The interest of the Crown in the land set apart as a burying ground and battlefield, and sometimes known as Drummond Hill Burying Ground and Lundy's Lane Battlefield and Cemetery, is vested in the Commission; being all and singular those certain parcels or tracts of land and premises, situate, lying and being in the City of Niagara Falls, in the County of Welland, and being composed of lot number six on the south side of Lundy's Lane between Victoria street and Main street, and lot number "C" in the rear thereof, and part of lot number five on the east side of Victoria street or concession road between Lundy's Lane and Barker street, all being shown on plan number 653 registered for the city of Niagara Falls, and which may be more particularly described as follows:

Drummond  
Hill Burying  
Ground and  
Lundy's  
Lane Battle-  
field and  
Cemetery  
vested in  
Commission.

Commencing on the south side of Lundy's Lane at the northeasterly angle of lot number six, thence southerly along the easterly limit of lot six and lot "C" four hundred and forty feet ten and one-half inches more or less to the southeast angle of lot "C"; thence westerly along the southerly limits of lot "C" and lot five, four hundred and seventy-four feet six and one-half inches more or less to a point one hundred and sixty-seven feet, seven and one-half inches westerly from the southeast angle of lot number five; thence northerly and parallel with Victoria street two hundred and fifty-nine feet ten and one-half inches more or less to the southwest corner of the Presbyterian church property; thence easterly along the southerly limit of the said Presbyterian church property one hundred and sixty-seven feet seven and one-half inches more or less to the southeast angle of the said church property, being also the northeast angle of lot number five; thence northerly along the easterly boundary of the said church property one hundred and eighty-one feet more or less to Lundy's Lane; thence easterly along south side of Lundy's Lane three hundred and six feet eleven inches more or less to the place of beginning. R.S.O. 1927, c. 81, s. 36.

**37.** Nothing in section 36 shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there interred; but, subject to the provisions of this section, the Commission shall have the right to enter upon, put in order, maintain and keep in repair such burying ground. R.S.O. 1927, c. 81, s. 37.

Existing  
rights as to  
burial pre-  
served.

## PART V.

## QUEENSTON HEIGHTS PARK.

Park  
established.

**38.** The parcels of land following:

- (a) The ordnance land surrounding Brock's Monument at Queenston in the Township of Niagara, in the County of Lincoln, containing by admeasurement thirty-one acres, be the same more or less as described in Letters Patent under the Great Seal of Canada, dated 5th May, 1896;
- (b) The parcel of land in the Village of Queenston in the Township of Niagara and County of Lincoln, containing by admeasurement 236/1,000 of an acre, be the same, more or less, which land was on 21st August, 1896, conveyed by deed to the commissioners for the Queen Victoria Niagara Falls Park, registered in the office of the registrar for the County of Lincoln as number 3435, at 10 a.m. of the 28th August, 1896;
- (c) The parcel or tract of land, in the township and county aforesaid, being composed of part of lot number three in the broken front concession, and part of that portion of the Military Reserve purchased by Messrs. Gzowski and Company from the War Department, containing twelve acres and one-half, be the same more or less, adjacent to the above mentioned monument land on the south;
- (d) The parcel or tract of land in the township and county aforesaid, being composed of part of lot number four in such township containing ten acres more or less adjacent to the monument lands on the north, save and except thereout a strip of land sixty-six feet wide, for the right-of-way of the International Railway Company, the centre line of which right-of-way may be described as follows: Beginning at a point on the southerly side of York street at a distance westerly from the northwest corner of the land above described of five chains ten links more or less, thence on a curve of 200 feet radius to a point on the southerly limit of the lands described distant seven chains and seventy-five links more or less from the southwest corner thereof, which land has been approved



by the Lieutenant-Governor, and marked upon the map of the Park and submitted to the Lieutenant-Governor and approved in Council and copies whereof duly certified and authenticated are filed and deposited in the office of the Minister of Lands and Forests, and in the office of the registrar for the County of Lincoln;

are set apart as a public park to be known as the "Queenston Heights Park," and the said land and the control and management thereof is vested in the Commission as trustees for Ontario, subject to the provisions of this Act. R.S.O. 1927, c. 81, s. 38. Vested in Commission.

**39.** Subject to the consent of the Lieutenant-Governor in Council, the Commission may acquire and hold for the purposes hereinbefore mentioned, any ordnance or Admiralty land of Canada adjacent to the Niagara river or within three miles thereof which the Governor-General in Council may vest in them, by lease or otherwise, and the Commission shall thereby acquire the same right as any other lessee or licensee under like tenure to protect the said land against waste, spoil or destruction to, of or upon the said lands. R.S.O. 1927, c. 81, s. 39. Power of Commission to hold certain other lands.

**40.** The Commission, with the approval of the Lieutenant-Governor in Council, may from time to time acquire such lands adjacent to or in the vicinity of the land hereinbefore mentioned in which any historic or public interest is deemed to attach, and shall hold the same in trust for Ontario subject to any trust declared in the deed or other instrument under which such lands are acquired and subject to the provisions of this Act. R.S.O. 1927, c. 81, s. 40. Power to acquire certain other lands.

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## CHAPTER 94.

## The Provincial Parks Act.

Interpretation.

1. In this Act "Minister" shall mean the Minister of Lands and Forests or the Minister to whom the control and management of a park is assigned. R.S.O. 1927, c. 82, s. 1.

## PART I.

Reservation of land the property of the Crown. Rev. Stat., cc. 33, 47.

2. The Lieutenant-Governor in Council may withdraw from sale, settlement and occupancy under the provisions of *The Public Lands Act*, and *The Mining Act*, any tract of land being the property of the Crown, and not suitable for settlement or agricultural purposes, and may reserve and set apart the same as a public park and forest reserve, fish and game preserve, health resort and pleasure ground for the benefit, advantage and enjoyment of the people of Ontario, and for the protection of the fish, birds, game and fur-bearing animals therein, subject to the provisions of this Act and of the regulations made thereunder, and any such tract shall be known as a provincial park and called by a distinctive name. R.S.O. 1927, c. 82, s. 2.

Powers of Lieutenant-Governor as to park boundaries.

3. The Lieutenant-Governor in Council may add to the park any adjacent tract of land the property of the Crown, alter the boundaries of the park, or withdraw any tract of land therefrom, and after publication of the Order-in-Council in the *Ontario Gazette* any such change shall take effect. R.S.O. 1927, c. 82, s. 3.

Conditions where land previously granted is included.

4. Where any land which has been located, sold, leased or granted is subsequently included in a provincial park, or where any of the land so included is covered by a license or permit to cut timber, the Lieutenant-Governor in Council may impose such terms and conditions with respect thereto as he shall deem proper, but so as not to curtail or diminish any of the rights of the locatee, purchaser, lessee or owner of such land or the holder of the timber license or permit, except with his consent. R.S.O. 1927, c. 82, s. 4.

Cutting timber or settling in park.

5. Except as hereinafter provided, no timber or wood shall be cut within the park and no person shall locate, settle

upon, use or occupy any part of a provincial park. R.S.O. 1927, c. 82, s. 5.

6. Every provincial park shall be under the control and management of the Minister, and the Lieutenant-Governor in Council may make regulations for,—
- (a) the care, preservation, management and improvement of the park, and of the watercourses, lakes, trees, shrubbery, minerals, natural curiosities and other matters therein; Control of park.  
Regulations.  
  
Care and preservation.
  - (b) controlling and regulating the level of the water in the rivers, streams and lakes of the park with the view of preventing damage to the trees and vegetation on the shores thereof; Controlling, regulating level of water in rivers, etc.
  - (c) leasing for any term of years such parcels of land in the park as he deems advisable for the construction of buildings for ordinary habitation, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the park as a sanitarium or health or summer resort; Leasing lots for erection of buildings.
  - (d) issuing licenses or permits to cut timber within the limits of the park and for the improvement of it and for fire wood for the use of persons engaged in and about the park, and prescribing the conditions and requirements of such licenses or permits; Issuing timber licenses.
  - (e) the working of mines and the developing of mineral interests within the limits of the park, and the issuing of licenses or permits of occupation for those purposes; but no lease, license or permit shall be made, granted or issued under this or clause (c) or (d) which will in any way impair the usefulness of the park for the purposes for which it is designed; Mining.
  - (f) issuing licenses for shops and for houses for the accommodation of visitors and places where trade and industries necessary for the accommodation of persons resorting to the park may be carried on; Licensing shops and inns.
  - (g) the prevention and extinguishment of fires; Fires.
  - (h) the preservation and protection of fish, birds, and animals in the park, and for the destruction and sale of any fish, birds, and animals, which may be deemed by the Minister to be noxious, injurious, or destructive, or the numbers of which he may deem it advisable in the public interest to reduce; Protection of fish and game, etc.

- Trespassers. (i) the removal and exclusion of pedlars, travelling salesmen and trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the park without proper authority;
- Appointment of officers. (j) the appointment of a superintendent and wardens, rangers, or other officers to see to the carrying out of the provisions of this Act and the regulations, and prescribing their powers and duties, and providing for their salaries or other remuneration out of any money which may be appropriated for that purpose by this Legislature;
- Penalties. (k) the imposition of penalties for any violation of the provisions of this Act or of the regulations not exceeding in any case \$50; and
- General purposes. (l) generally for all purposes which he may deem necessary for carrying out the provisions of this Act. R.S.O. 1927, c. 82, s. 6.

Publication of regulations. **7.**—(1) Every such regulation after its publication for four consecutive weeks in the *Ontario Gazette* and in any other manner prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted.

Laying before Assembly. (2) Every such regulation shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not then in session within fifteen days after the opening of the next session. R.S.O. 1927, c. 82, s. 7.

Penalty for illegal fishing, hunting, etc. **8.** Hunting, trapping, fishing, spearing, catching, or killing within the park of any fish, bird or animal, except as permitted by this Act or regulations made thereunder, is prohibited under a penalty not exceeding \$200 for each offence. R.S.O. 1927, c. 82, s. 8.

Having illegal implements in park. **9.** Carrying or using within the park any fishing net, night line, trap, spear, firearm, explosive, or any weapon or instrument for hunting, trapping, fishing, spearing, catching, or killing, of fish, bird, or animal, except as permitted by this Act or regulations made thereunder, is prohibited under a penalty not exceeding \$200 for each offence. R.S.O. 1927, c. 81, s. 9.

When killing of game, etc., may be permitted. **10.**—(1) Upon the report of the Minister that any species of animal or bird has increased to such an extent that its numbers may be lessened without detriment to the park,



or the purposes for which the park was established, the Lieutenant-Governor in Council may authorize the taking or killing of such animals or birds, not exceeding the number specified in the Order-in-Council, under the direction and supervision of the superintendent of the park.

(2) The skins or furs of the animals so taken or killed shall be marked by the superintendent with the name of the park, and also by punching or perforating the same in such manner as may be prescribed by the Lieutenant-Governor in Council, and such skins or furs, or the animals or birds so taken, or their carcasses, may be sold by the Minister and the proceeds of the sale shall be applied towards defraying the expenses of the park, and the possession or sale of skins or furs so taken and marked, or of such animals or birds or their carcasses, shall be lawful notwithstanding anything contained in any other Act or regulation.

Marking of skins.

(3) Every person who without lawful authority marks the skin or fur of any such animal in the manner described in subsection 2, or who has in his possession or sells any such skin or fur knowing that the same has been so marked, in addition to any other penalty to which he may be liable, shall incur a penalty not exceeding \$200.

Penalty for unlawfully marking skin or fur.

(4) Every person who without lawful authority has in his possession any stamp, punch or other instrument or thing by means of which any such skin or fur may be marked in the manner described in subsection 2, in addition to any other penalty to which he may be liable, shall incur a penalty of \$200. R.S.O. 1927, c. 82, s. 10.

Penalty for unlawfully having possession of stamp or brand.

**11.—**(1) For the purpose of supplying food for visitors or officers of the park or rangers or labourers therein employed by or under the control of the superintendent, the Minister, or such other person as shall be authorized by the Lieutenant-Governor in Council, may issue a license to carry hooks and lines and to fish therewith.

Angling licenses.

(2) No fish caught within the waters of the park may be sold, bartered, or trafficked in, under a penalty not exceeding \$50 for each offence. R.S.O. 1927, c. 82, s. 11.

Fish not to be trafficked in.

**12.** Any park ranger or member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may, on view without warrant or legal process, arrest and bring before a justice of the peace or before the superintendent to be dealt with according to law, any person found violating any provision of this Act or of the

Power to arrest on view of offence.

regulations made thereunder and the superintendent shall have the like power of arresting such person and when he is arrested may summarily try him for any of the offences hereinafter mentioned, and a park ranger or the superintendent may on view arrest and remove from the park any person found violating the provisions of this Act, or carrying or having in his possession a fishing net, trap, spear or night line, or firearm or other explosive, or other weapon or instrument for catching or killing fish other than hook and line or for the destruction of game or animals. R.S.O. 1927, c. 82, s. 12.

Seizure of implements unlawfully used.

**13.**—(1) The superintendent or any park ranger or any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may seize, take possession of and retain any net, trap, spear, firearm, explosive, weapon or instrument which he may find within the park, whether the same is held or set out with intent to take or kill any fish, bird or animal the taking or killing of which is forbidden by this Act, or otherwise, and may also seize and take possession of all furs, skins, peltries, fish, birds or animals found within the park, and the burden of proving that such furs, skins, peltries, fish, birds or animals have not been taken or obtained contrary to law shall rest upon the person claiming the same or in whose possession they may be found.

Report on seizure,—  
confiscation.

(2) The superintendent shall forthwith report any such seizure to the Minister, who may direct the confiscation of the articles seized or any of them and may direct that they be destroyed, or sold as the regulations may provide.

Searching without warrant.

(3) For the purpose of searching for and seizing nets, traps, spears, firearms, explosives, weapons, instruments, furs, skins, peltries, fish, birds or animals, the superintendent, any park ranger, any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may without a search warrant, search any boat, craft or vehicle propelled by gas, steam, electricity or any other means, and any person, building, place, or receptacle wherever found within the park, and may for such purpose enter into any building or place, or any part thereof, and may break open any door, lock or fastening of any building, place or receptacle, and shall have the power provided in subsection 1.

Seizure of implements unlawfully used.

(4) The superintendent or any park ranger, or any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may seize, take possession of and retain any net, trap, spear, firearm, explosive,

weapon or instrument used in the violation of any provision of this Act and found without the limits of the park, and upon the direction of any justice of the peace for the confiscation and sale thereof the articles so found shall be sold in such manner as the regulations may provide.

(5) The proceeds of all articles sold under the provisions of this section shall be paid in to the credit of the Consolidated Revenue Fund. Application of proceeds.

(6) An arrest, removal, seizure, confiscation, destruction or sale shall not relieve the offender from any other penalty to which he is liable under this Act or otherwise. R.S.O. 1927, c. 82, s. 13. Other penalties.

14. Timber and wood may be cut within the limits of the park under the authority of a timber license issued under *The Crown Timber Act* or the regulations made thereunder, or by the authority of the Minister, or under the regulations made by the Lieutenant-Governor in Council for the government and maintenance of the park. R.S.O. 1927, c. 82, s. 14. Cutting timber under license. Rev. Stat., c. 36.

15. A timber license over or in respect of any land within the park shall not entitle the holder thereof to exclusive possession of such land as against the Crown or its agents, servants, licensees or lessees, or the holder of any permit from the Crown, nor shall any such license exempt the holder thereof, his agents or employees, from the provisions of sections 8 and 9. R.S.O. 1927, c. 82, s. 15. Effect of license.

16. All cutting of timber by a licensee shall be subject to the supervision and control of a person appointed by the Minister from time to time for that purpose, but in the event of a disagreement between the person so appointed and the licensee, the matter may be referred to the Minister whose decision shall be final, and such cutting shall take place only as and when directed by the Minister and subject to such diameter limits, sequence of cutting, removal and disposition of slash, provision for re-seeding, and such further and other restrictions as may be determined by the Minister from time to time. R.S.O. 1927, c. 82, s. 16. Supervision of cutting by licensee.

17. For the purpose of watershed protection, beautification of park, fire protection, game preserves or game shelters, or for any other purpose that from time to time the Minister may deem advisable, the Minister, out of the areas included in any timber license, may withdraw certain timber from cutting and direct that such timber shall be left standing, and the licensee shall not be entitled to any compensation for Withdrawal of timber from cutting.

such timber so withdrawn unless directed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 82, s. 17.

Brush  
disposal.

**18.** All licenses from time to time issued shall, among other things, contain such provision as may from time to time be made by the Minister for brush disposal, diameter limit, timber cut, filing of plans for each season's operations and obtaining the consent and approval of the officer in charge of operations upon the limit. R.S.O. 1927, c. 82, s. 18.

Special  
regulations.

Rev. Stat.,  
c. 36.

**19.** All timber licenses or permissions to cut timber issued for lands included in any provincial park shall be subject, not only to *The Crown Timber Act* and regulations made thereunder, but also to all special regulations in respect of timber dues, ground rent and fire charges which may from time to time be made by the Lieutenant-Governor in Council. R.S.O. 1927, c. 82, s. 19.

Mining  
exploration.

**20.** Mining exploration or prospecting for minerals within the park is prohibited except under and in accordance with the regulations made under this Act. R.S.O. 1927, c. 82, s. 20.

Definition.

Rev. Stat.,  
c. 294.

**21.**—(1) In this section "intoxicating liquor" shall mean "liquor", and "beer" shall mean "beer" as defined by *The Liquor Control Act*.

Liquor  
in parks.

(2) No license shall be issued for the sale of intoxicating liquor within the park or within one mile of any part thereof. R.S.O. 1927, c. 82, s. 21 (1, 2).

Possession.

(3) Any parcel, package or case containing intoxicating liquor although addressed or consigned to more than one person shall, for the purposes of this section, be deemed to be in the possession of one person only.

Powers of  
rangers.

(4) For the purpose of enforcing within the park the provisions of this Act and of any enactment of the Provincial Legislature for the purpose of preventing, decreasing or controlling the sale or use of intoxicating liquors within the Province, every ranger shall have all the powers and authority of a constable, license inspector, or other officer appointed under such last mentioned enactment. R.S.O. 1927, c. 82, s. 21 (4, 5).

Where no  
special  
penalty  
provided.

**22.** Where no penalty is herein or otherwise provided any person violating any provision of this Act shall incur a penalty not exceeding \$50. R.S.O. 1927, c. 82, s. 22.



**23.** In addition to any penalty provided by this Act for the violation of any of its provisions the offender shall be liable for all damages caused by him. R.S.O. 1927, c. 82, s. 23.

Offenders' liability for damages.

**24.** A superintendent and park ranger shall have all the power and authority of a member of the Ontario Provincial Police Force. R.S.O. 1927, c. 82, s. 24.

Powers of park ranger.

**25.** The superintendent shall, within the limits of the park and for one mile from any part thereof, for the purposes of enforcing law and order and the provisions of this Act and the regulations, have all the powers, rights and privileges of a magistrate, and shall have jurisdiction over and within the park and the territory surrounding the same for the distance of one mile from any part thereof unless and until otherwise provided by the Lieutenant-Governor in Council, or the Lieutenant-Governor in Council may appoint another person as magistrate with such jurisdiction; but nothing in this section shall interfere with the jurisdiction of other magistrates. R.S.O. 1927, c. 82, s. 25.

Superintendent to have authority of magistrate.

**26.** During the construction and after the completion of any railway passing through a park the Minister may appoint as many rangers, officers or guardians as he may see fit for the protection of the fish, animals and birds, and of any other property or interest of the Crown, and the expenses incident to and connected with such service, including the salaries of such rangers, officers or guardians, shall be a debt due to the Crown from the railway company, recoverable in any court of competent jurisdiction. R.S.O. 1927, c. 82, s. 26.

Liability of railway company for expenses of conservation.

**27.** The superintendent shall be *ex officio* a medical officer of health for the park and for the territory surrounding the same for the distance of one mile therefrom or from any part thereof, and shall have all the powers and perform all the duties by *The Public Health Act*, or any other Act, conferred or imposed upon medical officers of health or local boards of health, and all park rangers, whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under that Act and shall have all the powers and perform all the duties conferred or imposed upon sanitary inspectors thereunder. R.S.O. 1927, c. 82, s. 27.

Superintendent to be *ex officio* a health officer.

Rev. Stat., c. 299.

**28.**—(1) Nothing herein shall withdraw the territory comprising the park or that within a mile from any part thereof from the operation of *The Game and Fisheries Act*, except as therein or herein otherwise provided.

Enforcement of game laws.

Rev. Stat., c. 353.

(2) All persons appointed under *The Game and Fisheries Act*, to enforce the provisions thereof, shall as to the territory

Enforcement of game laws.

in every provincial park be under the control and direction of the superintendent of the park, and this Act and the regulations made thereunder shall, as to said territory, take precedence over *The Game and Fisheries Act*, and the regulations made under said last mentioned Act. R.S.O. 1927, c. 82, s. 28.

Rev. Stat.,  
c. 353.

Licenses to  
guides.

**29.**—(1) The superintendent may issue licenses to fit and proper persons to act as guides in conducting tourists and visitors into and through the park, and any unlicensed person who acts as guide to any tourist or visitor shall incur a penalty not exceeding \$20 for each offence.

Annual fee.

(2) The annual fee to be paid for a license shall not exceed \$1.

Cancellation  
of license.

(3) The superintendent may cancel any such license upon proof of a contravention of this Act or of the regulations by the licensee. R.S.O. 1927, c. 82, s. 29.

Committal  
of offenders.

**30.** Any person arrested for a contravention of any of the provisions of this Act or of the regulations who is punishable upon summary conviction may before or after conviction be committed to the common gaol or to any lock-up within a district in which the park or any part thereof is situate, or to any nearer gaol or lock-up which may to the committing justice appear more convenient. R.S.O. 1927, c. 82, s. 30.

Recovery of  
penalties.

Rev. Stat.,  
c. 136.

**31.** Except where otherwise provided by this Act the provisions of *The Summary Convictions Act* shall apply to prosecutions and proceedings for the recovery of penalties under this Act. R.S.O. 1927, c. 82, s. 31.

Application  
of Part I.

**32.** Except as expressly provided in this Act or in any Act creating a provincial park, the provisions of this Part shall apply to every park named in this Act and to every other provincial park that heretofore has been or hereafter may be created under the provisions of this Act. R.S.O. 1927, c. 82, s. 32.

Inclusion of  
land in  
provincial  
park.

**33.** Any tract of land incorporated into a provincial park or any tract of land which is added to and becomes part of any provincial park under the provisions of this Act, shall be deemed to be and to have been severed from any municipality of which it may have been a part as from the date that such tract became a provincial park or a part thereof. 1937, c. 64, s. 2.

## PART II.

**34.** The Algonquin National Park is hereby continued under the name of the Algonquin Provincial Park, and, except as hereinafter expressly provided, shall be subject to the provisions of this Act. R.S.O. 1927, c. 82, s. 33. Algonquin Provincial Park.

**35.** The tract of land comprising the following townships, being the lands of the Crown, and lying within the Territorial District of Nipissing, that is to say, the Townships of Peck, Hunter, Devine, Biggar, Wilkes, Canisbay, McLaughlin, Bishop, Osler, Pentland, Sproule, Bower, Freswick, Lister, Preston, Dickson, Anglin, Deacon, all that portion of the Township of Finlayson east of the side road between lots 20 and 21 in the several concessions thereof; all that portion of the Township of McCraney east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Butt, east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Paxton, east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Ballantyne east of the side road between lots 20 and 21 in the several concessions thereof, except lot 21 in the 5th concession; all that portion of the Township of Boyd, south of the line between concessions 10 and 11, the west half of the Township of Fitzgerald comprising lots 1 to 20 in concessions 1 to 14 inclusive; lots 1 to 20 in concessions 1 to 14 inclusive in the Township of White; lots 16 to 38 in concessions 1 to 14 inclusive in the Township of Niven, and lots 16 to 37 in concessions 4 to 15 inclusive, the north 80 acres of lot 36 and the north 72 acres of lot 37 in the 2nd concession, and lots 35, 36 and 37 in the 3rd concession in the Township of Clancy, together with all those portions of the Townships of Lawrence, Nightingale and Airey, which townships are adjacent to the southern boundary of the said park, comprised in timber licenses numbers 114, 115, 117, 119, 122 and 132 issued for the year ending 30th April, 1911, is hereby withdrawn from sale, settlement and occupancy under the provisions of *The Public Lands Act*, and *The Mining Act*, and is set apart as a public park, forest reservation and health resort for the benefit and enjoyment of the people of Ontario and shall be known as the "Algonquin Provincial Park." R.S.O. 1927, c. 82, s. 34. Boundaries of park.

**36.** All interest or claim of the holder or owner of a timber license heretofore issued or renewed in or to any kind of timber in the Algonquin Provincial Park shall, as to pine timber on and after the expiry of thirty years from the 30th Timber licensees' rights in Algonquin Park,—when to terminate.

Rev. Stat.,  
cc. 33, 47.

Proviso.

day of April, 1930, and as to all timber other than pine on and after the expiry of fifteen years from the said 30th day of April, 1930, cease and determine and all the timber covered by such licenses shall become the property of His Majesty; provided that at the expiration of such respective periods the holders of licenses then in force shall have the first right to any new licenses over any land covered by such expiring licenses, but upon such terms and conditions and payments as the Minister may deem just having regard to the condition of the wood, pulp and lumbering industry in the Province of Ontario at that time. R.S.O. 1927, c. 82, s. 35.

Limitation  
as to  
licenses  
since 1st  
July, 1924.

**37.** Section 36 shall not apply to any license or licenses issued under or by virtue of any sale of timber made by the Crown subsequent to the 1st day of July, 1924. R.S.O. 1927, c. 82, s. 36.

Rondeau  
Provincial  
Park,  
continued.

**38.** The Rondeau Provincial Park is also hereby continued, and except as hereinafter expressly provided shall be subject to the provisions of this Act. R.S.O. 1927, c. 82, s. 37.

Boundaries  
of park.

**39.** The tract of land, marsh and land covered with water hereinafter mentioned, that is to say, so much of the Rondeau Peninsula otherwise known as Pointe aux Pins, in the County of Kent, as is the property of the Province and which may be known and described as follows, namely, all that parcel of land, marsh and land covered with water bounded on the north by the north limit of lot number 1 on said Pointe aux Pins and said limit produced easterly to the water's edge of Lake Erie, as shown on plan of survey by Provincial Land Surveyor Henry Lawe, dated September 8th, 1864, of record in the Department of Lands and Forests; on the east and south by the waters of said Lake Erie and on the west by the waters of the Harbour of Rondeau and the easterly break-water pier at the entrance to said Harbour; excepting thereout nevertheless said lot number 1 on Pointe aux Pins containing  $58\frac{1}{2}$  acres, as granted by Letters Patent to Isaac Swartout in 1872, and also that part of the Sand Beach containing  $15\frac{1}{2}$  acres, dividing the Harbour of Rondeau from Lake Erie as vested in the Government of Canada for lighthouse purposes on June 21st, 1892, containing by admeasurement an area of land, marsh and land covered with water of 4,946 acres, more or less, is hereby reserved and set apart as a public park, forest reservation and health resort for the benefit, advantage and enjoyment of the people of Ontario, and shall be known as the "Rondeau Provincial Park." R.S.O. 1927, c. 82, s. 38.

Dedication  
of land for  
park  
purposes.

Cutting  
timber.

**40.** No timber or wood shall be cut within the limits of



the Park, except dead or fallen wood, or in clearing for roads or other Park purposes, or underbrushing in clearing and maintaining the Park as shall be provided for by regulation, and then only under the direction of the ranger. R.S.O. 1927, c. 82, s. 39.

**41.**—(1) No person shall at any time shoot, hunt, trap, take, kill or destroy any animal, bird or fowl within Rondeau Park, except under authority of a license or permit granted in accordance with the regulations hereinafter authorized. Hunting, fishing, etc., in Rondeau Park without license prohibited.

(2) The Lieutenant-Governor in Council may make regulations as to the shooting, hunting, trapping, taking, fishing, killing or destroying within Rondeau Park, any animal, fish, bird or fowl protected by the provisions of this Act. Regulations.

(3) Any person offending against the provisions of this section or violating the provisions of such regulations shall for each offence incur a penalty of not less than \$20 and not more than \$50. R.S.O. 1927, c. 82, s. 40; 1934, c. 44, s. 2. Penalty.

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## CHAPTER 95.

## The Burlington Beach Act.

"Burlington Beach," area comprising.

**1.** The locality composed of the lands described in Schedule A hereto together with any other lands now or hereafter vested in the commission and all accretion to such lands shall continue to form and be known as Burlington Beach under and subject to the jurisdiction of the commission. 1937, c. 11, s. 2.

"Burlington Beach Commission".

**2.** The corporation heretofore known as the "Burlington Beach Commission" herein called the "commission" is continued and shall consist of not less than two nor more than five persons who shall be appointed, and one of them designated as chairman, by the Lieutenant-Governor in Council and who shall hold office during pleasure. 1937, c. 11, s. 3.

Powers of commission to be those of the municipal corporation of a city.

**3.—(1)** Except and subject as otherwise provided in this Act, the commission shall, with respect to Burlington Beach and the government and administration of its affairs and of its inhabitants, be deemed to be a municipal corporation and council of a city for the purposes and within the meaning of *The Municipal Act*, *The Local Improvement Act*, *The Assessment Act*, and every other general Act relating to municipal institutions.

Rev. Stat., cc. 266, 269, and 272.

Commission to function for school, utility and other purposes.

**(2)** Except and subject as otherwise provided in this Act, the commission with respect to Burlington Beach and the government and administration of its affairs and of its inhabitants shall also for the purposes and within the meaning of the following mentioned Acts be deemed to be,—

Rev. Stat., cc. 357, 299, 286, 62, 283, 266, 285.

(a) *The Public Schools Act*, an urban public school board;

(b) *The Public Health Act*, a local board of health;

(c) *The Public Utilities Act* and *The Power Commission Act*, a commission having the management and control of a public utility;

(d) *The Public Libraries Act*, a public library board;

- (e) *The Municipal Act*, a board of police commissioners;
- (f) *The Public Parks Act*, a board of park management;
- (g) and, for the purposes of any other general Act pursuant to which the council of a city may appoint any board, commission or other body, such board, commission or other body.

(3) Except as to property of the Crown all real property and accretions thereto and personal property, and any interest therein, now vested in the commission and all rights, powers and privileges now belonging to or exerciseable by the commission shall continue to be vested in, belong to and be exerciseable by the commission.

Property  
vested in  
commission.

(4) With respect to property now or hereafter vested in the commission or which it may manage or control, it may demand, collect and recover from any person having the occupation or use thereof any money due for rent or otherwise and with the approval of the Lieutenant-Governor in Council, may dispose of, by sale, lease or otherwise, any such property.

Collection of  
revenues  
from pro-  
perty and  
sale, etc., of  
such  
property.

4.—(1) Burlington Beach shall continue to be and remain separate and withdrawn from the County of Wentworth and Township of Saltfleet for municipal and school purposes.

Separation  
from county  
and town-  
ship for  
local  
purposes.

(2) For judicial purposes, Burlington Beach shall continue to remain a portion of the said county and, notwithstanding anything in *The Municipal Act* contained, the commission shall pay annually on or before the 1st day of December the sum of \$250 to the corporation of the said county in full satisfaction of all liability to the said county.

Burlington  
Beach to be  
part of  
county for  
judicial  
purposes.

Rev. Stat.,  
c. 266.

(3) For purposes of elections to the Assembly, Burlington Beach shall continue to remain a portion of the Township of Saltfleet and all persons in Burlington Beach possessing the necessary qualifications shall for the said purposes be entitled to be placed on the voters' lists of the said township; and for the said purposes the secretary of the commission shall annually, within thirty days after the return of the annual assessment roll of Burlington Beach, prepare and furnish to the clerk of the said township a list of persons so qualified and for his information shall furnish all particulars required in preparing a voters' list pursuant to *The Voters' Lists Act*, 1937, c. 11, s. 5.

For  
provincial  
electoral  
purposes  
Burlington  
Beach to  
be part  
of township.

Rev. Stat.,  
c. 7.

Vice-chairman of commission.

5.—(1) At the first meeting of the commission in each year one of the members shall be elected as vice-chairman for the year who, in the absence of the chairman, shall have all the rights, powers, privileges and duties of the chairman, and in the absence at any meeting of the commission of the chairman and vice-chairman, the remaining members present shall elect one of their number to preside at such meeting.

Status of chairman.

(2) The chairman of the commission and, in his absence, the vice-chairman shall have all the rights, powers, privileges and duties of the mayor of a city.

Quorum.

(3) A majority of the members of the commission shall be necessary to form a quorum.

Common seal.

(4) The commission shall have a common seal which shall be affixed to or impressed on all its by-laws, contracts and engagements.

Protection of members of commission from suit.

(5) No action of any kind whatsoever shall be brought against the commissioners or any of them, personally, for anything done or omitted to be done under the authority of this or any other Act, without the consent of the Lieutenant-Governor in Council. 1937, c. 11, s. 6.

By-laws, etc., not to require electoral approval.

6. No by-law, resolution, transaction or proceeding of the commission shall for its validity require to be submitted to or receive the assent of the inhabitants, electors or ratepayers of Burlington Beach. 1937, c. 11, s. 7.

Secretary, his powers and duties.

7.—(1) The commission shall appoint a secretary thereof who, subject to the by-laws of the commission shall, with respect to Burlington Beach and the administration of its affairs and of its inhabitants, have and may exercise all the authority, power and rights and shall perform all the duties which, by statute or by-law, are or may be conferred or imposed upon the clerk, treasurer, assessment commissioner and collector of a city and the secretary and treasurer of the several boards, commissions and other bodies referred to in section 3.

Additional powers and duties of secretary.

(2) The commission may by by-law confer or impose upon the secretary the powers and duties of any other officer who may be appointed by the council of a city and when so conferred or imposed the secretary shall have authority and duty to exercise and perform the same.

Other officers of commission, their powers and duties.

(3) The commission may appoint such assessors, assistant collectors and other officers, servants and employees as it may deem requisite for its purposes and confer upon them such



authority and impose upon them such duties as to the commission may seem expedient.

(4) The secretary and every other officer, servant and employee of the commission shall hold office during its pleasure and the provisions of section 257 of *The Municipal Act* with respect to furnishing surety shall apply to them. 1937, c. 11, s. 8. Officers to be appointed during pleasure. Rev. Stat., 1937, c. 266.

8.—(1) The commission shall appoint an auditor to hold office during pleasure who shall monthly or otherwise, as the commission may require, audit all accounts affecting the commission. Auditor.

(2) The auditor shall on or before the 15th day of February in each year make and submit to the commission, in duplicate, an annual audit report upon the accounts, affairs and transactions of the commission of the preceding calendar year, and shall at the same time transmit a triplicate copy thereof to the Department of Municipal Affairs for Ontario. Annual audit report.

(3) The auditor shall have the same authority, power and duty as the auditor of a city. Powers and duties of auditor.

(4) The commission shall as soon as the annual report of the auditor is received cause one copy thereof to be and remain posted up in a public place in its office where it may be inspected at any ordinary office hours by any adult inhabitant of Burlington Beach, and the commission shall within one month after receipt of the annual audit report either cause to be published once a week for two weeks in a daily newspaper published in the City of Hamilton or by such other means as the said Department of Municipal Affairs may approve make available to the ratepayers of Burlington Beach such extracts from, summaries of or information from the auditor's report as the said Department may prescribe. Publication of audit report.

(5) Any officer of the Government of Ontario, authorized by the Provincial Auditor or the said Department, may at any time inspect and audit the accounts, books and records of the commission. 1937, c. 11, s. 9. Provincial audit powers.

9. The chief constable and every other member of the police force appointed by the commission for Burlington Beach shall have the same authority, power and immunities and shall perform the same duties as are conferred and imposed upon the chief constable and members of the police force of a city. 1937, c. 11, s. 10. Police force, power and duties.

Assessment  
commis-  
sioner and  
assessors.  
powers and  
duties.

Rev. Stat.,  
c. 272.

**10.** The secretary, as assessment commissioner, and any assessor appointed by the commission shall, with respect to Burlington Beach, have and may exercise all the powers and authorities and shall perform all the duties of an assessment commissioner and assessor of a city under *The Assessment Act* and any other general Act for the purposes of the said Acts. 1937, c. 11, s. 11.

Assessment  
and  
taxation.

Rev. Stat.,  
cc. 266, 272.

**11.—(1)** The provisions of *The Municipal Act*, *The Assessment Act* and any other Act relating to assessment and taxation for municipal and school purposes, liens in respect thereof and rights and means for collection and enforcement of payment of rates and taxes and as to penalties and interest to be added thereto and discounts therefrom shall apply to Burlington Beach, the commission and its officers in the same manner and to the same extent as if Burlington Beach were a city, and all the powers and duties of an assessment commissioner and of an assessor for a city shall be exerciseable and be performed by the secretary of the commission as assessment commissioner and by any assessor appointed by it.

Time for  
taking  
assessment,  
return of  
roll, appeals,  
etc.

Rev. Stat.,  
c. 272.

**(2)** The commission may by by-law provide for the taking of the assessment of the rateable property at Burlington Beach at and during such time of the year as it may determine, notwithstanding that such time may be different from that mentioned in section 59 of *The Assessment Act*, and such by-law shall provide for the time when the assessment roll shall be returned, appeals to the court of revision and to the judge shall be heard and the roll shall finally be revised.

Court of  
revision.

**(3)** The court of revision shall be composed of three persons to be appointed by the commission to hold office during pleasure, and it shall not be necessary that any of such persons be a member of the commission.

Appeals to  
county  
judge.

**(4)** An appeal shall lie from the decision of the court of revision to the judge of the county court of the County of Wentworth.

Confirmation  
of assess-  
ment and  
collectors'  
rolls of pre-  
vious years.

**(5)** All assessment rolls of the commission heretofore finally revised, all collectors' rolls for taxes of the commission heretofore returned by the collectors thereof, and all collectors' returns of said rolls heretofore made are hereby validated and confirmed and declared to be binding upon and conclusive against all persons, parties or corporations affected thereby, notwithstanding any irregularity, fault or omission in the said assessment rolls, collectors' rolls or collectors' returns, or in any matter or thing done or omitted to be done in relation thereto (including failure to distrain) and notwithstanding anything contained in any Act or Acts to the contrary. 1937, c. 11, s. 12.

**12.**—(1) The commission for any of its purposes shall have and may exercise any of the powers of the corporation and council of a city with respect to the incurring of debt, borrowing of money and issuing of debentures. Debts and debentures.

(2) The provisions of *The Ontario Municipal Board Act*, with respect to such debts, borrowings and debentures shall apply as if Burlington Beach were a municipality and as to the approval of the Ontario Municipal Board being obtained in respect thereof. Approval of Municipal Board.  
Rev. Stat., c. 60.

(3) The commission shall not incur any debt to be provided for by the issue of debentures or issue any debentures when the debenture debt of the commission at any time exceeds in the whole five per centum of the assessed value of all the real property in Burlington Beach according to the last revised assessment roll, nor when the rate of taxation for the then current or last preceding year for general and school purposes is or was in excess of 35 mills in the dollar. Limitation upon gross debt.

(4) The provisions of *The Municipal Act* as to the issue, sale and hypothecation of debentures, the borrowing of money for capital or current purposes and the imposition and levying of rates for the payment of any debentures issued, money borrowed and interest thereon shall apply to the commission, except that it shall not be necessary in any case that the assent of any of the inhabitants, ratepayers or electors be thereto requisite. 1937, c. 11, s. 13. Application of Rev. Stat., c. 266.

**13.**—(1) Sections 2, 7 and 32 of *The Statute Labour Act* shall apply to Burlington Beach and the inhabitants thereof and to the commission in the same manner and to the same extent as if Burlington Beach were a city. Application of part of Rev. Stat., c. 274.

(2) Every money penalty for an offence against the provisions of any statute or by-law which if committed in a city would become payable to the corporation thereof shall, if the offence is committed in Burlington Beach, become payable and shall be paid to the commission and form part of its revenues. 1937, c. 11, s. 14. When fines to be paid to commission.

**14.** The commission may enter into agreements with any school board of a municipality respecting the admission to a high school or vocational school under the jurisdiction of such board, of pupils who are not entitled to attend the same as resident pupils and who or whose parents or guardians are resident in Burlington Beach and for the payment of fees for the education of such pupils as in the case of the council of a municipality under the provisions of section 47 of *The* Payment of cost of secondary education.

Rev. Stat.,  
c. 360.

*High Schools Act*, and the commission may in each year levy the necessary rates for the payment of such fees as part of its general rates upon the whole of the rateable property in Burlington Beach according to the last revised assessment roll thereof. 1937, c. 11, s. 15.

Reports, etc.,  
to be made  
to Department  
of  
Municipal  
Affairs.

**15.** The commission shall furnish to the Department of Municipal Affairs for Ontario such annual and other returns and reports as to the affairs of Burlington Beach and of the commission as the said Department may from time to time require or prescribe. 1937, c. 11, s. 16.

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### SCHEDULE A.

All those parcels or tracts of land and premises known as portions of Burlington Beach in the Township of Saltfleet, as shown and coloured red on parts of a plan of survey by Thomas C. Brownjohn, P.L.S., dated Hamilton, September 25th, 1874, of record in the Department of Lands and Forests, which are abutted and bounded as follows:—

First. Commencing at the point A as shown on the plan in the southern limit of the County of Halton; thence easterly along that limit to the easterly shore of the Beach at the point B as shown on the plan; thence southerly along the said Beach to the point C as shown on the plan at the intersection of the northerly limit of the Burlington Canal Reserve; thence westerly along the northerly limit of the Reserve to the westerly shore of the Beach at the point D as shown on the plan; thence northerly along the Beach to the point A as shown on the plan, the place of beginning;

Second. Commencing at the point E on the plan in the southern limit of the Burlington Canal Reserve; thence easterly along that limit to the easterly shore of the Beach at the point F as shown on the plan; thence southerly along the Beach to the point G as shown on the plan, being the point of intersection with the north side of the road between Lots Nos. 28 and 29 in the 1st Concession of the Township of Saltfleet, produced easterly to the Beach; thence westerly along the northerly side of that road produced to the westerly shore of the Beach at the point H as shown on the plan; thence northerly along the said Beach to the point E as shown on the plan, the place of beginning;

Third. The Burlington Canal Reserve;

Fourth. The promontory extending into Burlington Bay from the Beach, which is not coloured red on the plan, and which promontory extends from a point a little north of the northerly boundary of the lands granted to Frank E. Walker by letters patent dated 18th May, 1896, southerly to a point opposite the lands granted to James Crooks by letters patent dated 7th April, 1897;

Fifth. Lands under the waters of Burlington Bay and Lake Ontario adjoining the Beach and to a distance into the said waters of five hundred feet parallel to and measured from high water mark at the Beach.

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1937, c. 11, Schedule A.



## CHAPTER 96.

## The Long Point Park Act.

1.—(1) The Lieutenant-Governor in Council may appoint a board of commissioners composed of three persons, which board shall be a body corporate by the name of "The Long Point Park Commission."

Board of  
commis-  
sioners.

(2) The members of the Board shall hold office during pleasure of the Lieutenant-Governor in Council.

Tenure  
of office.

(3) The Commissioners shall receive such compensation as shall be fixed by order of the Lieutenant-Governor in Council.

Compensa-  
tion.

(4) The Commissioners shall, at the first meeting of the Commission in each year, elect one of their members as chairman, and shall appoint a secretary, who, for the purposes of this Act, shall possess all the rights and powers and perform all the duties that pertain respectively to the office of reeve and clerk and treasurer of a village, and with such other rights, powers and duties as from time to time may be prescribed by said Board of Commissioners. R.S.O. 1927, c. 84, s. 1.

Chairman  
and  
secretary.

2. The tracts of land, marsh land, and land covered by water hereinafter mentioned, that is to say: All that parcel or tract of land and marsh land in the Township of South Walsingham bounded on the south by the waters of Lake Erie, on the north by the waters of Inner Long Point Bay, on the east by the lands now owned by the Long Point Company, and on the west by the lands now owned by the Toronto Big Creek Shooting Company, containing an area of four hundred and twenty acres, more or less, together with all unpatented portions of the marsh and other lands lying in front of lots numbers 14 to 24, both inclusive, and in front of the road allowance between lots numbers 18 and 19, in the broken front concession of the Township of South Walsingham, together with the land covered by the waters of Inner Long Point Bay lying south of a line drawn east astronomically from the centre of the mouth of the present outlet of Big Creek, formerly known as the Port Rowan ship canal, to the point of intersection of said line with a line drawn north astronomically from the most westerly point of Block "C" of

Park  
vested  
in Com-  
mission.

the lands of the Long Point Company, including any islands lying within that area, is hereby vested and set apart as a park, forest reservation and health resort for the benefit, advantage, and enjoyment of the people of Ontario, and shall be known as the "Long Point Park." R.S.O. 1927, c. 84, s. 2.

Board to inquire into present leases and contracts.

**3.** It shall be the duty of the Commission, and it shall have power, to inquire into and ascertain the facts concerning all leases, and all other contracts or agreements, to, or with persons, in reference to any of the lands in the Long Point Park, the names of the persons holding the same, the amounts of rents reserved or other payments provided for in the same, the terms and conditions under which such agreements or leases are made, and also other particulars in connection with the same. R.S.O. 1927, c. 84, s. 3.

Collection of arrears of rent.

**4.** The Commission shall have power to demand, collect and receive from any person in occupation or use of the lands in the Long Point Park under any present or future lease, contract or agreement, any money due or unpaid, for rent, or otherwise in respect thereof. R.S.O. 1927, c. 84, s. 4.

Powers of Commission.

**5.** Subject to any direction of the Lieutenant-Governor in Council, the Commission shall have power,—

- (a) to lease, purchase, or otherwise acquire, and to construct and operate boats, vessels, motor cars and other means of transportation to be used in connection with the Long Point Park;
- (b) to pull down all houses or other erections, or buildings on said lands, or such of them, or such part of them, as the Commission may think proper to be pulled down, and to sell, or otherwise dispose of, or make use of, the material of the houses and other erections and buildings thus taken down and removed, or otherwise disposed of, or made use of;
- (c) to erect wharves, houses, and other erections, buildings and structures on said lands, and the same and all other wharves, houses and other erections, buildings, and structures, with their appurtenances, which now are or hereafter may be upon said lands, to lease or sublet to applicants therefor;
- (d) to lay out, build, improve, develop and enclose the Park in such manner as it thinks fit;

(e) to demand, collect and receive tolls, rents, taxes, or other charges or money for the use of lands, buildings, erections, structures, appliances, vessels, means of transportation, or works made, built or used, in, or in connection with, the operation of the Long Point Park, as well as for services rendered or to be rendered for the convenience of accommodation of visitors, and to expend so much of the money received therefrom as may in the opinion of the Commission be necessary or expedient in beautifying or otherwise improving the same as a park and place of public resort, and for all other purposes authorized by this Act, and, whenever required by an order of the Lieutenant-Governor in Council so to do, to remit to the Treasurer of Ontario any surplus remaining in the hands of said Commission. R.S.O. 1927, c. 84, s. 5.

6. The Commission may appoint one or more constables, Constables. who shall have the same powers and perform the same duties in the Long Point Park as the constables appointed by the council of a village. R.S.O. 1927, c. 84, s. 6.

7.—(1) The Commission shall have all the powers conferred by *The Municipal Act* on the board of commissioners of police in a city having a population of not less than 100,000. Powers of Commission. Rev. Stat., c. 266.

(2) The Commission may make regulations and pass by-laws for fixing the sums to be paid for licenses required under the by-laws passed under subsection 1. Regulations and by-laws.

(3) After the passing of any such by-law no general by-law of the Township of South Walsingham for any of the purposes provided by such by-law shall apply. R.S.O. 1927, c. 84, s. 7. Effect of by-laws of Commission.

8. The Commission may also make regulations and pass by-laws for protection from fire, and for providing such fire appliances as it may deem necessary for the protection of life and property within the limits of the Long Point Park. R.S.O. 1927, c. 84, s. 8. Protection from fire.

9. The Commission may also make regulations and pass by-laws for letting contracts, or employing labour, or purchasing material for making roads, buildings, sidewalks and culverts, putting in drains, planting trees, and otherwise improving and beautifying the Long Point Park as a park and place of public resort, and doing all things necessary for such purposes, and the Commission may pass by-laws for entering Sidewalks, roads, culverts, drains, etc.

into, and may enter into, contracts for the supply of water, light or heat by any person or company to the Long Point Park or the residents therein, and doing all things necessary for such purposes within the limits of the Long Point Park. R.S.O. 1927, c. 84, s. 9.

Other regulations.

Park to be open to public.

**10.** The Commission may also make such other regulations and pass such by-laws for the proper government of the Long Point Park as may be approved by the Lieutenant-Governor in Council, and, subject to such regulations and by-laws, said Park shall be open to the public. R.S.O. 1927, c. 84, s. 10.

Application of Rev. Stat., c. 286.

**11.** The provisions of *The Public Utilities Act*, except where inconsistent with the provisions of this Act, shall apply to the Commission. R.S.O. 1927, c. 84, s. 11.

Authentication of by-laws.

**12.** By-laws passed by the Commission shall be authenticated by the signature of the chairman and secretary and the seal of the corporation, and a copy of any such by-law so authenticated shall have the same force and effect as a copy of a municipal by-law duly certified in the manner provided by *The Municipal Act*. R.S.O. 1927, c. 84, s. 12.

Rev. Stat., c. 266.

Penalties for violation of by-laws.

**13.** The Commission may in any by-law provide that anyone contravening the by-laws shall incur a penalty not exceeding \$100 or be liable to imprisonment for a term not exceeding sixty days, and such penalty may be enforced by any justice of the peace having jurisdiction within the County of Norfolk. R.S.O. 1927, c. 84, s. 13.

Application of license fees and penalties.

**14.** All sums collected for license fees or for penalties for offences against any by-law passed by the Commission shall be paid over to the Commission. R.S.O. 1927, c. 84, s. 14.

Repair and maintenance of highways.

**15.** It shall be the duty of the Commission to keep the highways in the Long Point Park in proper repair. R.S.O. 1927, c. 84, s. 15.

Power to borrow to amount of \$25,000.

**16.—(1)** The Commission may raise by loan the sum of \$25,000 for the purpose of constructing, building, leasing, purchasing, improving, extending, holding, maintaining, managing and conducting waterworks and all buildings, material, machinery and appurtenances thereto belonging, and other permanent works for a waterworks system of the Commission, and for enlarging and improving the Long Point Park, and for all other purposes and objects intended to be secured by this Act.



(2) The Commission may pass by-laws for contracting debts for any of such purposes by borrowing money, and for issuing debentures therefor, and it shall not be necessary to levy any special rate therefor. By-laws for borrowing.

(3) The whole debt and the debentures to be issued therefor shall be made payable in thirty years at furthest from the time or times when the debentures are issued. Term of debt.

(4) The amount falling due for principal and interest in each year on account of such debentures shall be payable out of the general revenues of the Commission. Provision for payment.

(5) The holder of every debenture or other obligation issued under the authority of this Act shall have a preferential charge or lien on the revenues of the Commission, and the Commission shall pay such debts in priority to all other debts. Security of debenture holders.  
R.S.O. 1927, c. 84, s. 16.

**17.** No by-law or regulation, and no tariff of tolls, rents or other charges or payment to the Commission for the use of works, vessels, or of services, shall be acted upon or effective until approved of by the Lieutenant-Governor in Council. Approval of by-laws, etc.  
R.S.O. 1927, c. 84, s. 17.

**18.** The Commission may provide for the assessment of all lands situate within the Long Point Park, and, as to said assessment, and for the collection of all moneys due from the owners or occupants of such land, shall perform and possess all the duties and powers provided for by *The Assessment Act* and *The Voters' Lists Act* in the case of clerks, assessors and collectors in townships, and may expend money so collected for the purposes hereinbefore set forth, and for such other purposes as may from time to time be approved by the Lieutenant-Governor in Council. Assessment and taxation.  
R.S.O. 1927, c. 84, s. 18. Rev. Stat., cc. 272, 7.

**19.** The Commission shall have power to employ such officers, workmen and other persons as may be deemed necessary for the purposes of this Act, the salaries, wages or other compensation of such officers, workmen and other persons shall be payable out of the funds of the Commission. Employment of officers, workmen, etc.  
R.S.O. 1927, c. 84, s. 19.

**20.—(1)** The Commission shall cause books to be provided and true and accurate accounts to be entered therein of all sums of money received and paid out and of the several purposes for which the same were received and paid out, and such books shall be at all times open to the inspection of the Books and accounts.

Treasurer of Ontario, and of any person appointed by him or by the Lieutenant-Governor in Council, or by a majority of the ratepayers in the Long Point Park, for such purposes, and any such person may take copies or extracts from such books.

Applica-  
tion of  
Rev. Stat.,  
c. 24.

(2) Sections 10, 30 and 33 of *The Audit Act* shall apply to the accounts of the Commissioners in respect of receipts and expenditures. R.S.O. 1927, c. 84, s. 20.

Annual  
report.

**21.** On or before the 1st day of December in each year the Commission shall report to the Lieutenant-Governor in Council the receipts and expenditures of the year and such other matters as may appear to it to be of public interest in relation to the government of the Long Point Park, or to anything arising out of this Act and shall in all cases supply to the Lieutenant-Governor in Council such information relating thereto as he may direct. R.S.O. 1927, c. 84, s. 21.

Actions  
against  
Commis-  
sioners.

**22.** Without the authority of the Lieutenant-Governor in Council no action shall be brought against the Commissioners personally for anything done or omitted to be done under this Act. R.S.O. 1927, c. 84, s. 22.

Separation  
from  
South Wal-  
singham.

**23.** For municipal or school purposes the Long Point Park shall be deemed to be separated from and shall not form part of the Township of South Walsingham or of the County of Norfolk, and shall cease to be subject to the jurisdiction thereof except for judicial purposes. R.S.O. 1927, c. 84, s. 23.

Municipali-  
ties relieved  
as to  
liability for  
non-repair  
of highways.

**24.** No action shall be maintainable against the corporation of the County of Norfolk or the corporation of the Township of South Walsingham by reason of the non-repair of the highways, streets, sidewalks or bridges in the Long Point Park, or by reason of any misfeasance or nonfeasance in relation to them. R.S.O. 1927, c. 84, s. 24.

Elections to  
Legislative  
Assembly.

**25.** For purposes of election to the Legislative Assembly the Long Point Park shall be and remain a portion of the Township of South Walsingham and all persons in the Long Point Park possessing the necessary qualifications shall be entitled to be placed on the voters' lists of that township, and for such purposes the Commission shall, annually, before the 15th day of July, prepare and furnish to the clerk of the said township a list of persons so qualified and, for the information of the clerk of said township, shall furnish all particulars required in preparing the lists under *The Voters' Lists Act*. R.S.O. 1927, c. 84, s. 25.

Voters'  
lists.

Rev. Stat.,  
c. 7.

**26.** For all judicial purposes the Long Point Park shall be and remain a portion of the County of Norfolk. <sup>Judicial purposes.</sup> R.S.O. 1927, c. 84, s. 26.

**27.** The Commission may make regulations as to the shoot- <sup>Regulations as to game, etc.</sup> ing, hunting, taking, or killing in the Long Point Park, and on the waters of Lake Erie adjacent to the said Park on the southerly side thereof extending into said lake a distance of 10 chains from shore, and within all that portion of Inner Long Point Bay lying to the west of block "C" of the lands of the Long Point Company, and of a line drawn northerly from the most westerly point of said block "C" to the point in which the centre line of the town line road allowance between South Walsingham and Charlotteville Townships intersects the northerly shore of the said Bay, of any bird or animal protected by the provisions of *The Provincial Parks Act*. <sup>Rev. Stat., c. 94.</sup> R.S.O. 1927, c. 84, s. 27.

**28.** Nothing in this Act contained shall be deemed to confer upon the said Commission any power to interfere with <sup>Rights of certain clubs preserved.</sup> the right of the owners of the property of The Long Point Company or the Toronto Big Creek Shooting Club, Limited. R.S.O. 1927, c. 84, s. 28.

**29.** The Lieutenant-Governor in Council may add to the <sup>Adding land to Park.</sup> Long Point Park any adjacent tract of land which is the property of the Crown. 1933, c. 27, s. 2.

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## CHAPTER 97.

## • The Presqu'ile Park Act.

Board of  
commis-  
sioners.

1.—(1) The Lieutenant-Governor in Council may appoint a board of commissioners composed of five persons, which board shall be a body corporate by the name of "The Presqu'ile Park Commission."

Tenure of  
office.

(2) The members of the Board shall hold office during pleasure of the Lieutenant-Governor in Council.

Compensa-  
tion.

(3) The commissioners shall receive such compensation as shall be fixed by order of the Lieutenant-Governor in Council.

Chairman.

(4) The commissioners, at the first meeting of the Commission in each year, shall elect one of their members as chairman, who, for the purposes of this Act, shall possess all the rights and powers, and shall perform all the duties that pertain to the office of reeve of a village.

Secretary.

(5) The commissioners, at the first meeting of the Commission in each year, shall appoint a secretary, who, for the purposes of this Act, shall possess all the rights and powers and shall perform all duties that pertain to the offices of clerk and treasurer of a village.

Further  
rights and  
powers of  
chairman  
and  
secretary.

(6) The chairman and secretary shall respectively possess such other rights and powers and perform such other duties as are consistent with the purposes and provisions of this Act and as from time to time shall be prescribed by the Board of commissioners. R.S.O. 1927, c. 85, s. 1.

What lands  
to be set  
apart for  
purposes of  
Park.

2. The tract of land and marsh land hereinafter mentioned, that is to say: All that parcel or tract of land and marsh land in the Township of Brighton, in the County of Northumberland being composed of Presqu'ile Peninsula and High Bluff Island as shown on plans of survey by A. B. Perry, dated December 6th, 1869, on record in the Department of Lands and Forests, together with any small islands or bars and all marsh land lying adjacent to the said peninsula and south of the Village of Brighton and of Lots 4 and 5 in the broken front concession of Brighton Township, excepting from the above mentioned lands, the light-house reserve, containing



some 125 acres, and two other small lots on the northerly shore of the Point, containing together one acre and sixty-five one hundredths of an acre, more or less, and a strip, 30 feet wide adjoining the westerly boundary produced of the said lighthouse reserve to give connection with the public road, as described in the Report of the Committee of the Privy Council and approved November 6th, 1920, and shown on a plan attached to the said report, containing an area of 875 acres, more or less, is hereby vested and set apart as a park, forest reservation and health resort for the benefit, advantage and enjoyment of the people of Ontario and shall be known as the "Presqu'ile Park." R.S.O. 1927, c. 85, s. 2.

3. It shall be the duty of the Commission, and it shall have power, to inquire into and ascertain the facts concerning all leases, and all other contracts or agreements, to, or with persons, in reference to any of the lands in the Presqu'ile Park, the names of the persons holding the same, the amounts of rents reserved or other payments provided for in the same, the terms and conditions under which such agreements or leases are made, and also other particulars in connection with the same. R.S.O. 1927, c. 85, s. 3.

Board to inquire into present leases and contracts.

4. The Commission shall have power to demand, collect and receive from any person in occupation or use of lands in the Presqu'ile Park, under any present or future lease, contract or agreement, any money due or unpaid, for rent, or otherwise in respect thereof. R.S.O. 1927, c. 85, s. 4.

Collection of arrears of rent.

5. Subject to any direction of the Lieutenant-Governor in Council, the Commission shall have power,—

Powers of Commission.

- (a) to lease, purchase, or otherwise acquire, and to construct and operate boats, vessels, motor cars and other means of transportation, to be used in connection with the Presqu'ile Park;
- (b) to pull down all houses or other erections, or buildings on said lands, or such of them, or such part of them, as the Commission may think proper to be pulled down, and to sell, or otherwise dispose of, or make use of, the material of the houses and other erections and buildings thus taken down and removed, or otherwise disposed of, or made use of;
- (c) to erect wharves, houses and other erections, buildings and structures, on said lands, and the same and all other wharves, houses, and other erections, buildings and structures, with their appurtenances,

which are now, or hereafter may be, upon said lands, to lease or sublet to applicants therefor;

(d) to lay out, build, improve, develop and enclose the Park in such manner as it thinks fit;

(e) to demand, collect, and receive tolls, rents, taxes, or other charges or money for the use of the lands, buildings, erections, structures, appliances, vessels, means of transportation, or works made, built or used, in, or in connection with, the operation of the Presqu'ile Park, as well as for services rendered or to be rendered for the convenience or accommodation of visitors, and to expend so much of the money received therefrom as may in the opinion of the Commission be necessary or expedient in beautifying or otherwise improving the same as a park and place of public resort, and for all other purposes authorized by this Act, and, whenever required by an order of the Lieutenant-Governor in Council so to do, to remit to the Treasurer of Ontario any surplus remaining in the hands of the said Commission. R.S.O. 1927, c. 85, s. 5.

Constables.

6. The Commission may appoint one or more constables, who shall have the same powers and perform the same duties in the Presqu'ile Park as the constables appointed by the council of a village. R.S.O. 1927, c. 85, s. 6.

Powers of Commission.

Rev. Stat.,  
cc. 266, 357.

7.—(1) The Commission shall have all the powers conferred and shall be subject to all the limitations imposed by *The Municipal Act* on the municipal council of a town, together with all the powers conferred by *The Public Schools Act* upon a rural school board.

Regulations  
and by-laws.

(2) The Commission may make regulations and pass by-laws for fixing the sums to be paid for licenses required under the by-laws passed under subsection 1.

Effect of  
by-laws of  
Commission.

(3) After the passing of any such by-law no general by-law of the Township of Brighton for any of the purposes provided by such by-law shall apply. R.S.O. 1927, c. 85, s. 7.

Protection  
from fire.

8. The Commission may also make regulations and pass by-laws for protection from fire, and for providing such fire appliances as it may deem necessary for the protection of life and property within the limits of Presqu'ile Park. R.S.O. 1927, c. 85, s. 8.

**9.** The Commission may also make regulations and pass by-laws for letting contracts, or employing labour, or purchasing material for making roads, buildings, sidewalks, and culverts, putting in drains, planting trees, and otherwise improving and beautifying the Presqu'ile Park as a park and place of public resort, and doing all things necessary for such purposes, and the Commission may pass by-laws for entering into, and may enter into, contracts for the supply of water, light or heat by any person or company to the Presqu'ile Park or the residents therein, and doing all things necessary for such purposes within the limits of the Presqu'ile Park. R.S.O. 1927, c. 85, s. 9.

Sidewalks,  
roads, cul-  
verts, drains,  
etc.

**10.** The Commission may also make such other regulations and pass such by-laws for the proper government of the Presqu'ile Park as may be approved by the Lieutenant-Governor in Council, and, subject to such regulations and by-laws, said Park shall be open to the public. R.S.O. 1927, c. 85, s. 10.

Other  
regulations.

Park to be  
open to  
public.

**11.** The provisions of *The Public Utilities Act*, except where inconsistent with the provisions of this Act, shall apply to the Commission. R.S.O. 1927, c. 85, s. 11.

Application  
of Rev. Stat.,  
c. 286.

**12.** By-law passed by the Commission shall be authenticated by the signature of the chairman and secretary and the seal of the corporation, and a copy of any such by-law so authenticated shall have the same force and effect as a copy of a municipal by-law duly certified in the manner provided by *The Municipal Act*. R.S.O. 1927, c. 85, s. 12.

Authentica-  
tion of  
by-laws.

Rev. Stat.,  
c. 266.

**13.** The Commission may in any by-law provide that any one contravening the by-laws shall incur a penalty not exceeding \$100 or be liable to imprisonment for a term not exceeding sixty days, and such penalty may be enforced by any justice of the peace having jurisdiction within the United Counties of Northumberland and Durham. R.S.O. 1927, c. 85, s. 13.

Penalty for  
violation  
of by-law.

**14.** All sums collected for license fees or for penalties for offences against any by-law passed by the Commission shall be paid over to the Commission. R.S.O. 1927, c. 85, s. 14.

Application  
of license  
fees and  
penalties.

**15.** It shall be the duty of the Commission to keep the highways in the Presqu'ile Park in proper repair. R.S.O. 1927, c. 85, s. 15.

Repair and  
maintenance  
of highways.

**16.**—(1) The Commission may raise by loan the sum of \$50,000 for the purpose of acquiring or expropriating lands

Power to  
borrow to  
amount of  
\$50,000.

and for constructing, building, leasing, purchasing, improving, extending, holding, maintaining, managing and conducting waterworks and all buildings, material, machinery and appurtenances thereto belonging, and other permanent works for a waterworks system of the Commission, and for enlarging and improving the Presqu'ile Park, and for all other purposes and objects intended to be secured by this Act.

By-law for borrowing.

(2) For the purposes of this section the Commission may pass by-laws for contracting debts for any of such purposes by borrowing money, and for issuing debentures therefor, and it shall not be necessary to levy any special rate therefor.

Term of debt.

(3) The whole debt and the debentures to be issued therefor shall be made payable in thirty years at furthest from the time or times when the debentures are issued.

Provision for payment.

(4) The amount falling due for principal and interest in each year on account of such debentures shall be payable out of the general revenues of the Commission.

Security of debenture holders.

(5) The holder of every debenture or other obligation issued under the authority of this Act shall have a preferential charge or lien on the revenues of the Commission, and the Commission shall pay such debts in priority to all other debts.

Guarantee by Ontario.

(6) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario to guarantee the payment, on behalf of Ontario, of the debentures issued or to be issued by the Presqu'ile Park Commission under this section.

Form of guarantee.

(7) The form of guarantee and the manner of its execution shall be determined by the Lieutenant-Governor in Council. R.S.O. 1927, c. 85, s. 16.

Approval of by-laws, etc.

**17.** No by-law or regulation, and no tariff of tolls, rents or charges or payment to the Commission for the use of works, vessels, or of services, shall be acted upon or effective until approved of by the Lieutenant-Governor in Council. R.S.O. 1927, c. 85, s. 17.

Assessment and taxation.

**18.** The Commission may provide for the assessment of all lands situate within the Presqu'ile Park, and, as to said assessment, and for the collection of all moneys due from the owners or occupants of such land, shall perform and possess all the duties and powers provided for by *The Assessment Act* and *The Voters' Lists Act* in the case of clerks, assessors and collectors in townships, and may expend money so collected



for the purposes hereinbefore set forth, and for such other purposes as may from time to time be approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 85, s. 18.

**19.** The Commission shall have power to employ such officers, workmen and other persons as may be deemed necessary for the purposes of this Act, and the salaries, wages or other compensation of such officers, workmen and other persons shall be payable out of the funds of the Commission. R.S.O. 1927, c. 85, s. 19.

Employment  
of officers,  
workmen,  
etc.

**20.**—(1) The Commission shall cause books to be provided and true and accurate accounts to be entered therein of all sums of money received and paid out and of the several purposes for which the same were received and paid out, and such books shall be at all times open to the inspection of the Treasurer of Ontario, and of any person appointed by him or by the Lieutenant-Governor in Council, or by a majority of the ratepayers in the Presqu'ile Park, for such purposes, and any such person may take copies or extracts from such books.

Books and  
accounts.

(2) Sections 10, 30 and 33 of *The Audit Act* shall apply to the accounts of the commissioners in respect of receipts and expenditures. R.S.O. 1927, c. 85, s. 20.

Application  
of Rev. Stat.,  
c. 24.

**21.** On or before the 1st day of December in each year the Commission shall report to the Lieutenant-Governor in Council the receipts and expenditures of the year and such other matters as may appear to it to be of public interest in relation to the government of the Presqu'ile Park, or to anything arising out of this Act, and shall in all cases supply to the Lieutenant-Governor in Council such information relating thereto as he may direct. R.S.O. 1927, c. 85, s. 21.

Annual  
report.

**22.** Without the authority of the Lieutenant-Governor in Council no action shall be brought against the commissioners personally for anything done or omitted to be done under this Act. R.S.O. 1927, c. 85, s. 22.

Actions  
against  
commis-  
sioners.

**23.** For municipal or school purposes the Presqu'ile Park shall be deemed to be separated from and shall not form part of the Township of Brighton or of the United Counties of Northumberland and Durham and shall cease to be subject to the jurisdiction thereof except for judicial purposes. R.S.O. 1927, c. 85, s. 23.

Separation  
from Town-  
ship of  
Brighton  
and United  
Counties.

**24.** No action shall be maintainable against the corporation of the United Counties of Northumberland and Durham

Liability for  
non-repair  
of highway.

or the corporation of the Township of Brighton by reason of the non-repair of the highways, streets, sidewalks or bridges in the Presqu'ile Park, or by reason of any misfeasance or nonfeasance in relation to them. R.S.O. 1927, c. 85, s. 24.

Elections to  
Legislative  
Assembly.

**25.** For purposes of election to the Legislative Assembly the Presqu'ile Park shall be and remain a portion of the Township of Brighton, and all persons in the Presqu'ile Park possessing the necessary qualifications shall be entitled to be placed on the voters' lists of that township and for such purposes the Commission shall, annually, before the 15th day of July, prepare and furnish to the clerk of said township a list of persons so qualified and, for the information of the clerk of said township, shall furnish all particulars required in preparing the lists under *The Voters' Lists Act*. R.S.O. 1927, c. 85, s. 25.

Voters'  
lists.

Rev. Stat.,  
c. 7.

Judicial  
purposes.

**26.** For all judicial purposes the Presqu'ile Park shall be and remain a portion of the United Counties of Northumberland and Durham. R.S.O. 1927, c. 85, s. 26.

Regulations  
as to game,  
etc.  
Rev. Stat.,  
c. 353.

**27.** Subject to the provisions of *The Game and Fisheries Act*, the Commission may make regulations as to the shooting, hunting, taking or killing in the Presqu'ile Park, and on the waters of Presqu'ile Harbour and of Lake Ontario adjacent to the said Park on the westerly, southerly and easterly sides thereof extending into said harbour and said lake a distance of ten chains from shore, of any bird or animal protected by the provisions of *The Provincial Parks Act*. R.S.O. 1927, c. 85, s. 27.

Rev. Stat.,  
c. 94.

Application  
of Rev. Stat.,  
c. 266.

**28.—(1)** The commissioners may acquire or expropriate lands, owned by owners as defined by section 342 of *The Municipal Act*, and situate within Presqu'ile Park.

Application  
of Rev. Stat.,  
c. 266.

**(2)** For the purpose of acquiring or expropriating such lands the provisions of *The Municipal Act* with respect to the acquisition of land and compensation shall apply.

Application  
of s. 5,  
cls. b and c.

**(3)** Until such lands shall have been so acquired or expropriated, the powers conferred by clauses *b* and *c* of section 5 shall not be exercised as to lands so owned. R.S.O. 1927, c. 85, s. 28.

Adding to  
Park.

**29.** The Lieutenant-Governor in Council may add to the Presqu'ile Park any adjacent tract of land which is the property of the Crown. 1929, c. 28, s. 2.

## SECTION VII.

### ADMINISTRATION OF JUSTICE.

#### 1. APPEALS TO PRIVY COUNCIL.

#### CHAPTER 98.

#### The Privy Council Appeals Act.

**1.** Where the matter in controversy in any case exceeds the sum or value of \$4,000, as well as in any case where the matter in question relates to the taking of any annual or other rent, customary or other duty, or fee, or any like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an appeal shall lie to His Majesty in His Privy Council, and, except as aforesaid, no appeal shall lie to His Majesty in His Privy Council. R.S.O. 1927, c. 86, s. 1.

**2.** No such appeal shall be allowed until the appellant has given security in \$2,000, to the satisfaction of the court appealed from, that he will effectually prosecute the appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is confirmed. R.S.O. 1927, c. 86, s. 2.

**3.** Subject to rules of court, upon the perfecting of such security, execution shall be stayed in the original cause except in the following cases,—

- (a) if the judgment appealed from directs the assignment or delivery of documents or personal property, execution shall not be stayed until the things directed to be assigned or delivered have been brought into court or placed in the custody of such officer or receiver as that court or judge of it appoints, or until security has been given to the satis-

When  
appeal  
may be  
made.

Security.

Stay of  
execution.

Exceptions:  
where assign-  
ment or  
delivery of  
documents  
or personal  
property  
directed.

Delivery  
into  
custody, or  
security.

faction of the Supreme Court or a judge thereof, and in such sum as may be directed, that the appellant will obey the order of the Privy Council;

Where execution of instrument directed.

- (b) if the judgment appealed from directs the execution of a conveyance or any other instrument, execution shall not be stayed until the instrument has been executed and deposited with the proper officer to abide the judgment of the Privy Council;

Where sale of real property, etc., directed.

- (c) if the judgment appealed from directs the sale or delivery of possession of real property or chattels real, execution shall not be stayed until security has been entered into to the satisfaction of the Supreme Court, or a judge thereof, and in such sum as such court or judge directs, that during the possession of the property by the appellant he will not commit or suffer to be committed any waste on the property, and if the judgment is confirmed he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession of it, and also in case the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency;

Security not to commit waste.

Where payment of money directed.

- (d) if the judgment appealed from directs the payment of money, execution shall not be stayed until the appellant has given security to the satisfaction of the Supreme Court, or a judge thereof, that if the judgment or any part of it is affirmed the appellant will pay the amount thereby directed to be paid or the part of it as to which the judgment may be affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on the appeal. R.S.O. 1927, c. 86, s. 3.

Security to pay debt.

Forms, etc., of security. Rev. Stat., c. 263.

4. Subject to the provisions of *The Guarantee Companies Securities Act*, the security shall be by the bond of two sufficient sureties, each of whom shall make affidavits or justification. R.S.O. 1927, c. 86, s. 4.

Amount of security where judgment directs payment of money.

5. Where security is to be given for payment of money, directed by the judgment or order appealed from to be paid, either as a debt or for damages or costs, the bond shall be in double the amount by the judgment or order directed to be paid; but where security is to be given in a sum in excess of \$2,000, the Supreme Court or a judge thereof may allow



it to be given by a larger number of sureties, apportioning the amount among them as may be deemed proper, and where the amount directed to be paid exceeds \$10,000 may allow the security to be given for such amount less than double the amount directed to be paid as may be deemed proper. R.S.O. 1927, c. 86, s. 5.

**6.** Where the judgment appealed from directs the sale or delivery of possession of real property or chattels real, the bond shall be in double the yearly value of the property. Where judgment directs sale, etc. R.S.O. 1927, c. 86, s. 6.

**7.** The bond, with an affidavit of the due execution of it, and the affidavits of justification, shall be filed in the office in which the action or matter was commenced, and shall be deemed to be perfected and allowed, unless within fourteen days after being served with notice of the filing the respondent moves for its disallowance; but the appellant may, after the filing, make a special application before the expiration of such fourteen days to stay execution. Filing of bond. R.S.O. 1927, c. 86, s. 7.

**8.** Instead of giving a bond the appellant may, without order, pay into court a sum equal to half the penalty of the bond in cases within section 3 or section 6, or equal to the amount by the judgment or order directed to be paid in cases within section 5, and the money when so paid in shall stand as security in lieu of a bond, but either party may apply to the court or a judge to increase or diminish the amount to be paid into court. Payment into court in lieu of bond. R.S.O. 1927, c. 86, s. 8.

**9.** When the security has been perfected and allowed, a judge of the Supreme Court may issue his fiat to the sheriff to whom any execution upon the judgment has been issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not; but if the grounds of appeal appear to be frivolous, the Supreme Court or a judge thereof may order execution to issue or to be proceeded with. Fiat for stay. Unless appeal frivolous. R.S.O. 1927, c. 86, s. 9.

**10.** A judge of the Supreme Court shall have authority to approve of and allow the security to be given by a party who intends to appeal to His Majesty in His Privy Council, whether the application for such allowance be made during the sittings of the Court, or at any other time. Approval of security. R.S.O. 1927, c. 86, s. 10.

**11.** The preceding sections shall not apply to an appeal to His Majesty in His Privy Council from a judgment of any court on a reference under *The Constitutional Questions Act*. Exception in appeals under Rev. Stat., c. 130. R.S.O. 1927, c. 86, s. 11.

Exceptions.

**12.** The provisions of this Act, other than section 1, shall not apply to any appeal heretofore or hereafter taken by His Majesty in right of the Province of Ontario, or by any Minister of the Crown for the Province of Ontario, or by The Hydro-Electric Power Commission of Ontario, and any such appeal shall be admitted and thereupon execution shall be stayed in the original cause without the giving of any security. 1937, c. 62, s. 2.

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## 2. SUPREME AND EXCHEQUER COURTS OF CANADA.

### CHAPTER 99.

#### The Dominion Courts Act.

1. The Supreme Court of Canada, and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the provisions of the Acts of the Parliament of Canada, known as *The Supreme Court Act* and *The Exchequer Court Act*, shall have jurisdiction in cases of,—

Jurisdiction of courts.

R.S.C., cc. 34, 35.

- (a) controversies between the Dominion of Canada and Ontario; Controversies between Canada and Ontario.
- (b) controversies between any other Province of the Dominion which may have passed an Act similar to this Act and Ontario; Controversies between Ontario and certain other Provinces.
- (c) actions, or proceedings, in which the parties there-to by their pleadings have raised the question of the validity of an Act of the Parliament of Canada, or of an Act of the Legislature of Ontario, when in the opinion of a judge of the court in which the same are pending such question is material, and in such case the judge shall, at the request of the parties, and may without such request, if he thinks fit, order the case to be removed to the Supreme Court of Canada, in order to the decision of such question. R.S.O. 1927, c. 87, s. 1. Cases involving the validity of Acts of Canada or Ontario.

2. In case sittings of any court of the Dominion of Canada, or of any judge thereof, are appointed to be held in any city, town, or place in which a court house is situate, such court or judge shall have, in all respects, the same authority as a judge of the Supreme Court in regard to the use of the court house and other buildings or apartments set apart in the county for the administration of justice. R.S.O. 1927, c. 87, s. 2. Authority of judges of Dominion courts as to use of court house, etc.

## 3. CONSTITUTION OF THE PROVINCIAL COURTS.

## CHAPTER 100.

## The Judicature Act.

Interpreta-  
tion.

## 1. In this Act,—

- “Action.” (a) “Action” shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by the rules;
- “Cause.” (b) “Cause” shall include an action, suit or other original proceeding between a plaintiff and a defendant;
- “County.” (c) “County” shall include district;
- “County Court.” (d) “County court” shall include district court;
- “County town.” (e) “County town” shall include district town;
- “Court of Appeal.” (f) “Court of Appeal” shall mean the Court of Appeal for Ontario;
- “Defendant.” (g) “Defendant” shall include a person served with a writ of summons or process, or served with notice of, or entitled to attend a proceeding;
- “High Court.” (h) “High Court” shall mean The High Court of Justice for Ontario;
- “Judge.” (i) “Judge” shall include a Chief Justice and an *ex officio* judge;
- “Judgment.” (j) “Judgment” shall include an order;
- “Master of the Supreme Court.” (k) “Master of the Supreme Court” shall include Assistant Master;
- “Matter.” (l) “Matter” shall include every proceeding in the court not in a cause;



- (m) "Party" shall include a person served with notice "Party." of or attending, a proceeding, although not named on the record;
- (n) "Petitioner" shall include a person making an appli- "Petitioner." cation to the court, either by petition, motion or summons, otherwise than as against any defendant;
- (o) "Pleading" shall include a petition or summons, "Pleading." the statement in writing of the claim or demand of a plaintiff, of the defence of a defendant thereto, and of the reply of the plaintiff to a counterclaim of a defendant;
- (p) "Plaintiff" shall include a person asking any relief "Plaintiff." otherwise than by way of counterclaim as a defendant against any other person by any form of proceeding;
- (q) "Proper officer" where that expression is used with "Proper officer." respect to a duty to be discharged under this Act or the rules and that duty has been heretofore discharged by a particular officer, shall mean that officer, and where that expression is used in respect to a new duty under this Act or the rules, shall mean the officer to whom the duty is assigned by this Act or by the rules, or if it is not assigned to any officer shall mean such officer as shall from time to time be directed to discharge the duty, if it relates to the Court of Appeal by the Chief Justice of Ontario, or if it relates to the High Court by the President thereof;
- (r) "Rules" shall mean rules of court, and shall include "Rules." those made under the authority of this or any other Act, and those approved by the Lieutenant-Governor in Council on the 11th day of July, 1913;
- (s) "Supreme Court" shall mean Supreme Court of "Supreme Court." Ontario. R.S.O. 1927, c. 88, s. 1; 1931, c. 24, s. 2; 1932, c. 53, s. 10 (1).

#### CONSTITUTION AND JUDGES OF SUPREME COURT.

2. The Supreme Court shall be continued as a superior Supreme Court continued. court of record, having civil and criminal jurisdiction, and it shall have all the jurisdiction, power and authority which on the 31st day of December, 1912, was vested in or might be exercised by the Court of Appeal or by the High Court of Justice or by a Divisional Court of that Court, and such

Jurisdiction  
of Supreme  
Court.

jurisdiction, power and authority shall be exercised in the name of the Supreme Court. R.S.O. 1927, c. 88, s. 2.

Supreme  
Court  
continued.

**3.** The Supreme Court shall continue to consist of two branches—The Appellate Division, which shall hereafter be known as “The Court of Appeal for Ontario,” and The High Court Division, which shall hereafter be known as “The High Court of Justice for Ontario,” and this Act and rules shall be deemed to be amended throughout accordingly. 1931, c. 24, s. 2.

Jurisdiction.

Court of  
Appeal,—  
how con-  
stituted.

**4.**—(1) The Court of Appeal shall consist of a Chief Justice who shall be the president thereof and shall be called the Chief Justice of Ontario, a Chief Justice who shall be called the Chief Justice in Appeal and six other judges to be called justices of appeal.

Chief  
Justice  
in Appeal.

(2) Wherever the words “Chief Justice of the Second Divisional Court” appear in any statute or rule of court they shall be deemed to mean Chief Justice in Appeal.

Vacancy  
in office.

(3) When a vacancy occurs in the office of the Chief Justice in Appeal, the office shall be abolished, but such abolition shall not reduce the number of justices upon such Court. 1936, c. 31, s. 2.

High Court  
of Justice,—  
how con-  
stituted.

**5.**—(1) The High Court shall consist of a Chief Justice who shall be called the Chief Justice of the High Court and twelve other judges.

President.

(2) The Chief Justice of the High Court shall be president of the High Court. 1936, c. 31, s. 3.

Rank and  
precedence.

**6.**—(1) The Chief Justice of Ontario shall have rank and precedence over all the other judges.

(2) The Chief Justice in Appeal shall have rank and precedence next after the Chief Justice of Ontario.

(3) The Chief Justice of the High Court shall have rank and precedence next after the Chief Justice in Appeal.

(4) The justices of appeal holding office on the 31st day of December, 1912, shall retain their present rank and precedence.

(5) The justices of appeal appointed after the 31st day of December, 1912, and the other judges shall have rank and precedence after the Chief Justice of the High Court

and among themselves according to seniority of appointment.  
R.S.O. 1927, c. 88, s. 6; 1936, c. 31, s. 2.

7. Every judge appointed to the Court of Appeal or to the High Court shall be a judge of the Supreme Court and shall be *ex officio* a judge of the division of which he is not a member, and, except where it is otherwise expressly provided, all the judges of the Supreme Court shall have in all respects equal jurisdiction, power and authority. R.S.O. 1927, c. 88, s. 7.

Every judge to be a Judge of the Supreme Court.

8.—(1) Every judge hereafter appointed, before entering on the duties of his office, shall take and subscribe the following oath:—

Oath of office.

"I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as so help me God."

Form.

(2) The oath shall be administered to a Chief Justice before the Lieutenant-Governor in Council, to a justice of appeal by the Chief Justice of Ontario, and to a judge of the High Court by the President of the High Court, unless the Lieutenant-Governor in Council in any case otherwise directs, and in that event before such officer or functionary and in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 88, s. 8.

How oath to be administered.

9.—(1) Where a judge resigns his office or is appointed to any other court, he may at any time within eight weeks after his resignation or appointment give judgment in any cause, action or matter previously tried by or heard before him, as if he had not so resigned or been appointed.

Giving of judgment by judge who resigns or is appointed to another court.

(2) Where he has heard a cause, action or matter jointly with other judges in the Court of Appeal he may at any time within the period mentioned in subsection 1 take part in the giving of judgment by that court as if he were still a member of it.

When to take part in judgment.

(3) Where he does not take part in the giving of judgment or where a judge by whom a cause, action or matter has been heard in the Court of Appeal is absent from illness or any other cause or dies, the remaining judges of the court, or, if there is a difference of opinion, a majority of them may give judgment as if the judge who has so resigned or been appointed or is dead were still a member of the court and taking part in the judgment, and in the case of absence

Judgement of remaining judges or majority.

as if the absent judge were present and taking part in the judgment.

Reading  
judgment of  
absent  
judge.

(4) Where a judge who has heard a cause, action or matter in the Court of Appeal is not present when the judgment of the court is delivered, his written judgment may be read by one of the other judges and shall have the effect as if he were present. R.S.O. 1927, c. 88, s. 9.

#### SEAL.

Seal.

**10.** There shall be a seal for the Supreme Court to be approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 88, s. 10.

#### JURISDICTION AND LAW.

Jurisdiction  
to be exer-  
cised by  
Court of  
Appeal.

**11.**—(1) The Court of Appeal shall exercise that part of the jurisdiction vested in the Supreme Court which, on the 31st day of December, 1912, was vested in the Court of Appeal and in the Divisional Courts of the High Court, and such jurisdiction shall be exercised by the Court of Appeal, and in the name of the Supreme Court.

Jurisdiction  
to be exer-  
cised by  
High Court.

(2) Except as provided by subsection 1 all the jurisdiction vested in the Supreme Court shall be exercised by the High Court in the name of the Supreme Court. R.S.O. 1927, c. 88, s. 11.

Jurisdiction  
of Chief  
Justice and  
justices of  
appeal.

**12.**—(1) All jurisdiction, power and authority which on the 31st day of December, 1912, was vested in or exercisable by the Chief Justice of Ontario or by a justice of appeal, shall be vested in and may be exercised by a judge of the Court of Appeal, and shall be exercised in the name of the Supreme Court.

Jurisdiction  
of judges  
of the High  
Court.

(2) All jurisdiction, power and authority which on the 31st day of December, 1912, was vested in or exercisable by a judge of the High Court shall be vested in and may be exercised by a judge of the High Court, and shall be exercised in the name of the Supreme Court. R.S.O. 1927, c. 88, s. 12.

Provisions  
for absence  
or vacancy  
in office of  
a judge.

**13.** Upon the request of the judge or judges for or with whom he is requested to sit or act, or upon the request of the Chief Justice of Ontario or of the President of the High Court, any judge of the Supreme Court or any retired judge of that Court may sit and act as a judge of either of the divisions of the Supreme Court, or perform any other official



or ministerial act for or on behalf of any judge absent from illness or any other cause, or in the place of any judge whose office has become vacant, or as an additional judge of the Court of Appeal, and while so sitting and acting, any such judge or retired judge shall have all the power and authority of a judge of the Supreme Court. R.S.O. 1927, c. 88, s. 13.

**14.**—(1) Subject to the rules, the courts and the judges thereof, or any commissioner appointed under section 48, may sit and act, at any time and at any place, for the transaction of any part of the business of such courts, or of such judges or commissioner or for the discharge of any duty which by any statute, or otherwise, is required to be discharged.

Sittings of courts.

(2) Subject to subsection 1 the Court of Appeal shall sit at Toronto. R.S.O. 1927, c. 88, s. 14.

Where Court of Appeal sittings to be held.

#### ADMINISTRATION OF JUSTICE.

**15.** In every civil cause or matter law and equity shall be administered according to the following rules:—

Rules of law.

- (a) Where a plaintiff claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any defendant in such cause or matter, or to any relief founded upon a legal right which before the passing of *The Ontario Judicature Act, 1881*, could only have been given by a court of equity, the Supreme Court and every judge shall give to such plaintiff such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purposes properly instituted before the passing of that Act;
- (b) No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not;
- (c) Where a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff in such cause or matter, or alleges any ground of equitable defence to any claim of the

Equitable relief.

44 V., c. 5.

Declaratory judgments and orders.

Equitable defences.

plaintiff in such cause or matter, the Court and every judge shall give to every equitable estate, right or ground of relief so claimed and to every ground of equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in a suit or proceeding instituted in that court for the same or the like purpose before the passing of *The Ontario Judicature Act, 1881*;

44 V., c. 5.

Relief which may be granted to defendants.

- (d) The Court and every judge shall also have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff as such defendant shall have properly claimed by his pleading, and as the Court or any judge might have granted in a suit instituted for that purpose by the same defendant against the same plaintiff; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to the rules or to any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall henceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant;

Courts to take notice of equitable rights and duties.

- (e) The Court and every judge shall recognize and take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceeding duly instituted therein before the passing of *The Ontario Judicature Act, 1881*;

Restraining proceedings.

- (f) No cause or proceeding shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of

any such cause or proceeding might have been obtained, prior to *The Ontario Judicature Act, 1881*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto; but nothing in this Act shall disable the Court from directing a stay of proceedings in any cause or matter pending before it; and any person, whether a party or not to any such cause or matter, who would have been entitled, prior to *The Ontario Judicature Act, 1881*, to apply to any court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, may apply to the Court by motion in a summary way, for a stay of proceedings in such cause or matter either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as shall be deemed just;

- (g) Subject to the foregoing provisions for giving effect to equitable rights and other matters of equity and the other express provisions of this Act, the Court and every judge shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations and liabilities existing by the common law or created by any statute, in the same manner as the same would have been recognized and given effect to prior to *The Ontario Judicature Act, 1881*, by any of the courts then existing and whose jurisdiction is now vested in the Supreme Court; Giving effect to legal claims.
- (h) The Court in the exercise of the jurisdiction vested in it by this Act in every cause or matter pending before it, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as it shall deem just, all such remedies as any of the parties may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them in such cause or matter so that, as far as possible, all matters so in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided. Multiplicity of proceedings to be avoided. All matters in controversy to be determined in one proceeding.
- (i) (i) In case bonds or debentures are secured by a mortgage or charge by virtue of a trust deed or other instrument and whether or not provision is contained in Sanction of Court to sale under mortgage securing debentures.

the trust deed or other instrument creating such mortgage or charge giving to the holders of such bonds or debentures or a majority, or a specified majority of them, power to sanction the sale, transfer or exchange of the mortgaged or charged premises for a consideration other than cash, and in case any action shall have been brought or shall be brought for the purpose of enforcing or realizing upon any such mortgage or charge, or for the execution of the trusts in any such trust deed or other instrument with or without other relief, the court may order a meeting or meetings of the holders of such bonds or debentures to be summoned and held in such manner as the court may direct, and if the holders of such bonds or debentures shall sanction or approve the sale, transfer or exchange of the property so mortgaged or charged for a consideration wholly or in part other than cash, the court may in such action order and approve such sale on such terms in all respects as the court shall think fair and reasonable having regard to the interests of all parties interested in the premises and property so mortgaged or charged, and in such order or by any subsequent order may make provision in such manner, on such terms in all respects as to the court may seem proper, for the transfer to and vesting in the purchaser or his or its assigns of the whole or any part of the premises and property so mortgaged or charged and so sold, and for the payment of the proper costs, charges and expenses and remuneration of any trustee or trustees under such trust deed or other instrument and of any receiver or receiver and manager appointed by the court, and of any committee or other persons representing holders of such bonds or debentures, and for the distribution or other disposition of the proceeds of such sale, and for the protection of any or all persons whose interests are affected by such order, and for all such incidental, consequential and supplemental matters as the court may deem just.

- (ii) The approval of the holders of any such bonds or debentures may be given by resolution passed at a meeting, by the votes of the holders of a majority in principal amount of such bonds or debentures, represented and voting in person or by proxy, and holding not less than fifty per centum in principal amount, or such lesser amount as the court under all the circumstances may approve, of the issued and



outstanding bonds or debentures in question. 1935,  
c. 32, s. 5.

**16.**—(1) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court, in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally, or upon such terms and conditions as the Court shall deem just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, whether the person against whom it is sought is or is not in possession under any claim of title or otherwise, or if out of possession does or does not claim a right to do the act sought to be restrained under a colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable. R.S.O. 1927, c. 88, s. 16.

(2) An action may be brought in the Supreme Court by or on behalf of the Attorney-General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever which publishes continuously or repeatedly, writings or articles which are obscene, immoral, or otherwise injurious to public morals.

(3) An action under subsection 2 may be brought against anyone printing, publishing or distributing any publication of the kind mentioned in subsection 2.

(4) In any action brought under subsection 2 or 3 the judge may on such material as he sees fit, grant an interlocutory injunction or mandamus. 1933, c. 59, s. 6.

**17.** Where the Court has jurisdiction to entertain an application for an injunction against a breach of a covenant, contract or agreement or against the commission or continuance of a wrongful act, or for the specific performance of a covenant, contract or agreement, the Court may award damages to the party injured either in addition to or in substitution for such injunction or specific performance, and such damages may be ascertained in such manner as the Court may direct, or the Court may grant such other relief as may be deemed just. R.S.O. 1927, c. 88, s. 17.

**18.** The Court shall have power to relieve against all penalties and forfeitures, and in granting such relief to impose such terms as to costs, expenses, damages, compensation and

all other matters as may be deemed just. R.S.O. 1927, c. 88, s. 18.

Jurisdiction of court to make declaration as to validity of statute.

**19.**—(1) In any action in which the Attorney-General for Canada or the Attorney-General for Ontario is a party plaintiff and the other Attorney-General is a party defendant, the Court shall be deemed to have had and shall have jurisdiction to make a declaration as to the validity in whole or in part of any statute of this Legislature or any statute of the Parliament of Canada, which, by its terms, purports to have force in Ontario though no further relief be prayed or sought.

Appeal.

(2) The judgment in any such action shall be subject to appeal as in ordinary cases. 1930, c. 23, s. 2.

Appeal to Privy Council.

(3) An appeal to His Majesty in His Privy Council from a judgment of a Court in an action authorized by this section shall not be subject to the restrictions contained in *The Privy Council Appeals Act*. 1930, c. 21, s. 6.

Rev. Stat., c. 98.

Stay of proceedings if action for same cause is pending out of Ontario.

**20.** Where an action is brought in the Supreme Court for a cause of action for which a suit or action has been brought and is pending between the same parties or their representatives in any place or country out of Ontario, the Court or a judge may make an order staying all proceedings in the Supreme Court until satisfactory proof is offered to the Court or a judge that the suit or action so brought in such other place or country out of Ontario is determined or discontinued. R.S.O. 1927, c. 88, s. 20.

Rules of equity to prevail.

**21.** In questions relating to the custody and education of infants, and generally in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail. R.S.O. 1927, c. 88, s. 21.

Sections 15 to 21 to apply to all Courts.

**22.** The provisions of sections 15 to 21 shall be in force and have effect in all courts so far as the matters to which they relate are cognizable by such courts. R.S.O. 1927, c. 88, s. 22.

#### APPEALS.

Certain orders not subject to appeal.

**23.** No order of the High Court or of a judge thereof made with the consent of parties shall be subject to appeal, and no order of the High Court or of a judge thereof as to costs only which by law are left to the discretion of the Court shall be subject to appeal on the ground that the discretion was wrongly exercised, or that it was exercised under a misapprehension a

to the facts or the law or on any other ground, except by leave of the Court or judge making the order. R.S.O. 1927, c. 88, s. 23.

**24.** There shall be no appeal to the Court of Appeal from any interlocutory order whether made in court or chambers, save by leave as provided in the rules. R.S.O. 1927, c. 88, s. 24. Appeals from inter-locutory orders.

**25.—(1)** Subject to sections 23 and 24 and to the rules regulating the terms and conditions on which appeals may be brought, an appeal shall lie to the Court of Appeal from— Appeals to Court of Appeal.

(a) any judgment, order or decision of a judge of the High Court in court, whether at the trial or otherwise;

(b) any judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure which affects the ultimate rights of any party, and subject to the rules from any other judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure.

(2) The Court of Appeal shall also have jurisdiction as provided by any Act of the Parliament of Canada or of this Legislature.

(3) The Court of Appeal shall also have jurisdiction to hear and determine applications for new trials and applications to set aside verdicts and findings of juries in actions and matters tried or heard in the High Court. New trials.

(4) Nothing in this section shall limit the generality of the provisions of subsection 1 of section 11. R.S.O. 1927, 1927, c. 88, s. 25. Generality of subsec. 1 of sec. 11 not affected.

**26.—(1)** The Court upon an appeal may give any judgment which ought to have been pronounced and may make such further or other order as may be deemed just. Court may pronounce proper judgment.

(2) The Court shall have power to draw inferences of fact not inconsistent with any finding of the jury which is not set aside, and if satisfied that there are before the Court all the materials necessary for finally determining the matters in controversy, or any of them, or for awarding any relief sought, the Court may give judgment accordingly, but if the Court is of opinion that there are not sufficient materials before it to enable it to give judgment the Court may direct Power to draw inferences of fact and to give judgment if all necessary materials before the Court.

Or to direct  
further  
inquiry.

the appeal to stand over for further consideration and may direct that such issues or questions of fact be tried and determined and such accounts be taken and such inquiries be made as may be deemed necessary to enable the Court on such further consideration finally to dispose of the matters in controversy.

Where  
appeal is  
against  
part only.

(3) The powers conferred by subsections 1 and 2 may be exercised notwithstanding that the appeal is as to part only of the judgment, order or decision, and may be exercised in favour of all or any of the parties, although they may not have appealed. R.S.O. 1927, c. 88, s. 26.

New trial  
not to be  
granted  
in certain  
cases.

**27.**—(1) A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to the jury, or by reason of any omission or irregularity in the course of the trial, unless some substantial wrong or miscarriage has been thereby occasioned.

Judgment  
as to one  
part and  
new trial  
as to others.

(2) If it appears that a substantial wrong or miscarriage was so occasioned but it affected part only of the matter in controversy or some or one only of the parties, the Court may give final judgment as to any part or any party not so affected, and direct a new trial as to the other part only, or only as to the other parties. R.S.O. 1927, c. 88, s. 27.

New trial  
may be  
ordered on  
any  
question.

**28.** A new trial may be ordered upon any question without interfering with the decision upon any other question. R.S.O. 1927, c. 88, s. 28.

Disagree-  
ment of  
jury.

**29.** Where the jury disagrees or makes no finding on which judgment can be entered, the Court may, on the application of the defendant, dismiss the action on the ground that there is no evidence to warrant a judgment for the plaintiff, or that for any other reason he is not entitled to judgment. R.S.O. 1927, c. 88, s. 29.

Power of  
judge of  
Court of  
Appeal.

**30.** In any cause or matter pending before the Court of Appeal any direction incidental to it not involving the decision of the appeal, may be given by a judge of such Court; and a judge of that Court may during vacation make any interim order to prevent prejudice to the claim of any of the parties pending an appeal, as he may think fit; but every such order made by the judge shall be subject to appeal to the Court of Appeal. R.S.O. 1927, c. 88, s. 30.



## EFFECT OF JUDICIAL DECISIONS.

**31.**—(1) If a judge deems a decision previously given to be wrong and of sufficient importance to be considered in a higher court, he may refer the case before him to the Court of Appeal. Decisions may be referred to Court of Appeal.

(2) Where a case is so referred, it shall be set down for hearing, and notice of hearing shall be given in like manner as in the case of an appeal to the Court of Appeal. R.S.O. 1927, c. 88, s. 31 (3, 4); 1931, c. 24, s. 5. Procedure thereon.

(NOTE.—*As to conclusive operation of order of court when a purchaser concerned, see s. 59, Conveyancing and Law of Property Act.*) Rev. Stat., c. 152.

## CONSTITUTIONAL QUESTIONS.

**32.**—(1) Where in any action or other proceeding, the constitutional validity of any Act or enactment of the Parliament of Canada or of this Legislature is brought in question, the same shall not be adjudged to be invalid until after notice has been given to the Attorney-General for Canada, and the Attorney-General for Ontario. Notice to be given to Attorneys-General for Canada and for Ontario before Act declared invalid.

(2) The notice shall state what Act or part of an Act is in question, and the day on which the question is to be argued, and shall give such other particulars as are necessary to show the constitutional point proposed to be argued. Form of notice.

(3) Subject to the rules, the notice shall be served six days before the day named for the argument. Six days' notice necessary.

(4) The Attorney-General for Canada and the Attorney-General for Ontario shall be entitled, as of right, to be heard, either in person or by counsel, notwithstanding that the Crown is not a party to the action or proceeding. R.S.O. 1927, c. 88, s. 32. Right of Attorneys-General to be heard.

## INTEREST.

**33.** Interest shall be payable in all cases in which it is now payable by law, or in which it has been usual for a jury to allow it. R.S.O. 1927, c. 88, s. 34. Interest may be allowed as heretofore.

**34.**—(1) On the trial of any issue, or on any assessment of damages, upon any debt or sum certain, payable by virtue of a written instrument at a time certain, interest may be allowed from the time when the debt or sum became payable. When allowable on debts certain and overdue.

When allow-  
able after  
demand of  
payment.

(2) If such debt or sum is payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand of payment was made in writing, informing the debtor that interest would be claimed from the date of the demand.

Interest by  
way of  
damages in  
certain  
actions.

(3) In actions for the conversion of goods or for trespass *de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. R.S.O. 1927, c. 88, s. 35.

Interest on  
judgments.

**35.** Unless otherwise ordered by the Court, a verdict or judgment shall bear interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, notwithstanding that the entry of judgment shall have been suspended by any proceeding in the action including an appeal. R.S.O. 1927, c. 88, s. 36.

#### CERTIFICATE OF LIS PENDENS.

Action, etc.,  
not notice  
unless  
caution or  
certificate  
registered.

Rev. Stat.,  
c. 174.

**36.**—(1) The institution of an action or the taking of a proceeding, in which any title to or interest in land is brought in question, shall not be deemed notice of the action or proceeding to any person not a party to it, until, where the land is registered under *The Land Titles Act* a caution is registered under that Act, nor in other cases until a certificate, signed by the proper officer of the court has been registered in the registry office of the registry division in which the land is situate.

Form.

(2) The certificate may be in the following form:—

"I certify that in an action or proceeding in the Supreme Court of Ontario, between *A. B.*, of                      and *C. D.*, of                      some title or interest is called in question in the following land (*describing it*)."  
Dated at (*stating date and place*).

Exception.

(3) Subsection 1 shall not apply to an action or proceeding for foreclosure or sale upon a registered mortgage. R.S.O. 1927, c. 88, s. 37.

Order  
vacating  
caution or  
certificate on  
failure to  
prosecute  
action.

**37.**—(1) Where a caution or certificate is registered, and the plaintiff, or other party at whose instance it was issued, does not in good faith prosecute the action or proceeding, a judge of the High Court may at any time make an order vacating the caution or certificate.

Where land,  
etc., not  
claimed.

(2) Where a caution or certificate is registered, and the plaintiff's claim is not solely to recover land, or an estate or

interest in land, but to recover money or money's worth, chargeable on or payable out of land, or some estate or interest in it, or for the payment of which he claims that the land or such estate or interest ought to be subjected, or where the plaintiff claims land or some estate or interest in land, and, in the alternative, damages or compensation in money or money's worth, a judge of the High Court may at any time make an order vacating the caution or certificate upon such terms as to giving security or otherwise as may be deemed just.

(3) A judge of the High Court may at any time vacate the registration upon any other ground which may be deemed just. Upon other grounds.

(4) On an application under this section, the judge may order any of the parties to the application to pay the costs of any of the other parties to it, or may make any other order with respect to costs, which under all the circumstances may be deemed just. Costs.

(5) The order vacating a caution or certificate shall be subject to appeal according to the practice in like cases, and may be registered in the same manner as a judgment affecting land on or after the fourteenth day from date of the order, unless the order is meanwhile reversed or its registration is postponed or forbidden by an order of a judge of the High Court. Appeal from order.  
Registration of order.

(6) Where a caution or certificate is vacated, any person may deal in respect to the land as fully as if the caution or certificate had not been registered, and it shall not be incumbent on any purchaser or mortgagee to enquire as to the allegations in the action or proceeding, and his rights shall not be affected by his being aware of such allegations. Effect of vacating caution or certificate.  
R.S.O. 1927, c. 88, s. 38.

#### SITTINGS AND DISTRIBUTION OF BUSINESS.

**38.**—(1) The present Divisional Courts of the Appellate Division shall be merged and form one Court, hereafter known as "The Court of Appeal for Ontario." Divisional Courts merged in the Court of Appeal.

(2) Every appeal to the Court of Appeal shall be heard before not less than three justices of the Court sitting together, and always before an uneven number of justices.

(3) The Court of Appeal may sit in two divisions in alternate weeks or at the same time.

(4) The justices to sit from time to time and the appeals to be heard, shall be determined by the Chief Justice of Ontario. 1931, c. 24, s. 6.

Chief Justice  
may assign  
certain work.

**39.**—(1) The Chief Justice of Ontario may assign any justice of appeal not sitting in the Court of Appeal to perform, in Toronto, the work of a High Court judge.

*Ad hoc*  
judges of  
Court of  
Appeal.

(2) Whenever occasion requires, a judge who is not a member of the Court of Appeal, may sit in the place of a judge of the Court of Appeal.

When judges  
of one  
Court may  
sit in  
another.

(3) Subsection 2 shall apply where a vacancy occurs in the Court of Appeal by death or resignation of a judge or otherwise, until his successor is appointed.

Right of  
judge who  
sits in place  
of another  
not to be  
questioned.

(4) A judge who sits in the place of a judge of the Court of Appeal shall be conclusively deemed to have been entitled and qualified to so sit, within the meaning of subsections 2 and 3.

Judge may  
give judgment  
after  
ceasing to  
be judge of  
the Court  
of Appeal.

(5) A judge who has sat in the Court of Appeal on the hearing of any appeal, matter or proceeding therein may give judgment notwithstanding that he has ceased to be a judge of that court.

Judge not  
to hear  
appeal from  
his own  
judgment.

(6) A judge shall not sit on the hearing of an appeal from a judgment or order made by himself. R.S.O. 1927, c. 88, s. 40; 1931, c. 24, s. 7.

Chief Justice  
and justices  
of appeal  
not to be  
assigned  
certain work  
without  
consent.

**40.** Neither the Chief Justice of Ontario, nor any of the justices of appeal, shall, except as provided in section 39, without his consent, be assigned to, or required to perform any duty except as such appertains to him as a member of the Court of Appeal. 1931, c. 24, s. 8.

Presiding  
Chief Justice  
or judge.

**41.** The Chief Justice of Ontario, when present, shall preside, and in his absence, the Chief Justice in Appeal, or in his absence, the senior justice present, shall preside. 1931, c. 24, s. 10.

#### BUSINESS IN HIGH COURT TO BE DISPOSED OF BY A JUDGE.

Business to  
be disposed  
of by one  
judge.

**42.**—(1) Every action and proceeding in the High Court and all business arising out of it, except as herein otherwise expressly provided, shall be heard, determined and disposed of before a judge, and where he sits in court he shall constitute the court.

Judge to  
constitute  
the court.



(2) Subject to section 31, a judge of the High Court shall decide all questions coming properly before him, and shall not reserve any case, or any point in a case, for the consideration of the Court of Appeal. Judge not to reserve questions.

(3) All such arrangements as may be necessary or proper for the holding of any of the courts, or the transaction of business in the High Court, or the assignment from time to time of judges to hold such courts, or to transact such business, shall be made by the judges of that division. R.S.O. 1927, c. 88, s. 44. Arrangements for holding courts, etc.

#### SITTINGS FOR TRIALS.

**43.**—(1) There shall be as many sittings of the High Court in and for every county as are required for the trial of civil cases, matters and issues and for the trial of criminal matters and proceedings. Sittings for trials.

(2) Separate sittings may be held for the trial of civil causes, matters and issues which are to be tried without a jury, and separate sittings for those which are to be tried with a jury, and separate sittings may also be held for the trial of criminal matters and proceedings. Separate sittings may be held.

(3) Sittings may be held concurrently or separately as may be directed by the judges appointing the days therefor or by the judges presiding at such meetings. Sittings may be held concurrently.

(4) Subject to the rules, where a sittings is held for the trial of civil causes, matters and issues which are to be tried with and for those which are to be tried without a jury, separate lists shall be made and the jury cases shall be first disposed of unless the presiding judge otherwise directs. Jury cases to be first tried.

(5) The sittings shall be held in the court house of the county town or at such other place in the county town as the presiding judge directs. Sittings to be held in county town.

(6) Subject to the rules, at least two sittings shall be held in each year in and for every county, and additional sittings shall be provided when necessary for the due dispatch of public business. R.S.O. 1927, c. 88, s. 45. Two sittings yearly in each county.

**44.**—(1) Every such sittings shall be presided over by one of the judges of the Supreme Court, or, on the request in writing of a judge of the Supreme Court, by a retired judge of that court, or by a judge of a county court, or by one of His Majesty's Counsel learned in the law appointed for Ontario. Who may preside.

Powers of  
presiding  
judge.

(2) Such judge or counsel while holding the sittings shall possess and enjoy and may exercise all the powers and authorities of a judge of the High Court, and in civil proceedings may reserve the giving of his decision on questions raised at the trial and afterwards give the same, and such decisions shall have the like force and effect as the decision of a judge of the High Court. R.S.O. 1927, c. 88, s. 46.

Course to be  
pursued by  
the sheriff  
if the judge  
does not  
arrive on  
the day  
appointed  
for opening  
court.

**45.** Where the judge whose duty it is to hold any sittings does not arrive in time, or is not able to open court on the day appointed for that purpose, the sheriff may, after six o'clock in the afternoon of that day, by proclamation, adjourn the sittings to an hour on the following day to be named by him, and so from day to day until the judge arrives or until other directions from the judge or from the Chief Justice of the High Court are received. R.S.O. 1927, c. 88, s. 47.

When sit-  
tings to  
commence.

**46.**—(1) No such sittings shall begin on the first day earlier than one o'clock in the afternoon or on any other day before nine o'clock in the forenoon, nor, except for special reasons, shall it extend beyond seven o'clock in the afternoon, and there shall be an intermission of at least half an hour at or near noon.

Hours of  
sittings.

Non-observ-  
ance of hours  
not to affect  
proceeding.

(2) Failure to observe any of the provisions of subsection 1 shall not render the trial or other proceeding void. R.S.O. 1927, c. 88, s. 48.

Entering  
non-jury  
actions for  
trial.

**47.** Non-jury actions to be tried in any county except the County of York, may be entered for trial at any sittings of the High Court in such county. R.S.O. 1927, c. 88, s. 49.

Commis-  
sions of  
assize and  
other com-  
missions.

**48.**—(1) Commissions of assize or any other commissions, either general or special, may be issued, by the Lieutenant-Governor and Council, assigning to the person therein named, the duty of trying and determining within any place or district named for that purpose by the commission, any cause or matter, or any question or issue of fact or of law or partly of fact and partly of law, in any cause or matter, depending in the Supreme Court; or for the exercise of any civil or criminal jurisdiction capable of being exercised by the court.

Commis-  
sioner to be  
a court.

(2) A commissioner, when exercising any jurisdiction so assigned to him shall be deemed to constitute the Court. R.S.O. 1927, c. 88, s. 50.

## ACTIONS ON QUEBEC JUDGMENTS.

**49.** Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service on the defendant or party sued was personal, no defence which might have been set up to the original action may be made to the action on the judgment. R.S.O. 1927, c. 88, s. 51.

Action on  
Quebec  
judgment  
where ser-  
vice  
personal.

**50.** Where an action is brought on a judgment obtained in the Province of Quebec in an action in which the service was not personal and in which no defence was made, any defence which might have been set up to the original action may be made to the action on the judgment. R.S.O. 1927, c. 88, s. 52.

Action on  
Quebec  
judgment  
where ser-  
vice not  
personal.

**51.—(1)** Where an action is brought on a judgment obtained in the Province of Quebec the costs incurred in obtaining the judgment in that Province shall not be recoverable without the order of a judge directing their allowance.

Costs.

(2) Such order shall not be made, unless, in the opinion of the judge, the costs were properly incurred nor if it would have been a saving of expense and costs to have first instituted proceedings in Ontario on the original claim. R.S.O. 1927, c. 88, s. 53.

Conditions  
under which  
order may  
be made.

## TRIAL, AND PLACE OF TRIAL.

**52.** Actions of libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution and false imprisonment shall be tried by a jury unless the parties in person or by their solicitors or counsel waive such trial. R.S.O. 1927, c. 88, s. 54.

Certain  
actions to be  
tried by  
a jury.

**53.** Actions against a municipal corporation or board of police trustees for damages in respect of injuries sustained by reason of the default of the corporation in keeping in repair a highway or bridge shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county which constitutes the municipality or in which the municipality or police village is situate. R.S.O. 1927, c. 88, s. 55.

Certain  
actions  
against  
municipal-  
ities, etc., to  
be tried  
without a  
jury and  
venue to be  
local.

**54.—(1)** Subject to the rules, except where otherwise expressly provided by this Act, all issues of fact shall be tried and all damages shall be assessed by the judge without the intervention of a jury.

Issues of  
fact with  
certain  
exceptions  
to be tried  
without  
jury.

Judge may direct trial by jury.

(2) The judge may nevertheless direct that the issues or any of them be tried and the damages assessed by a jury. R.S.O. 1927, c. 88, s. 56.

Where jury required notice to be given.

**55.**—(1) Subject to the rules, if a party desires that the issues of fact shall be tried or the damages assessed by a jury he may, at any stage of the proceedings, but not later than the fourth day after the close of the pleadings or if notice of trial or assessment is served before that time, within two days after service of such notice or within such other time as may be allowed by a judge, file and serve on the opposite party a notice in writing requiring that the issues be tried or the damages assessed by a jury, and if such notice is given, subject to subsection 3, they shall be tried or assessed accordingly.

Copy of notice to be annexed to record.

(2) A copy of the notice shall be attached to the certified copy of the pleadings prepared for use at the trial.

Jury may be dispensed with.

(3) Notwithstanding the giving of the notice the issues of fact may be tried or the damages assessed without the intervention of a jury if the judge presiding at the sittings so directs or if it is so ordered by a judge.

Subsection 1 not to apply to certain causes, etc. 36 V., c. 8.

(4) Subsection 1 shall not apply to causes, matters or issues over the subject of which before *The Administration of Justice Act, 1873*, the Court of Chancery had exclusive jurisdiction. R.S.O. 1927, c. 88, s. 57.

Effect of agreement, etc., as to place of trial.

**56.**—(1) Subject to subsection 2, no proviso, condition, stipulation, agreement or statement which provides for the place of trial of any action, matter or other proceeding shall be of any force or effect.

Motion by defendants to change venue.

(2) Subsection 1 shall not apply or be available unless and until the defendant moves to change the place of trial. R.S.O. 1927, c. 88, s. 58.

#### JURY TRIALS.

Agreement of ten jurors in verdict or answers to be sufficient.

**57.**—(1) It shall be sufficient if ten of the jurors agree, and a verdict rendered or question answered by ten jurors shall have the same effect as a verdict or answer given by twelve jurors.

Special juries.

(2) This section shall apply to special juries.

Not necessary for same ten jurors to agree to all answers.

(3) Where more questions than one are submitted, it shall not be necessary that the same ten jurors shall agree to every answer. R.S.O. 1927, c. 88, s. 59.



**58.** If at the trial of an action or issue or assessment of damages, a juror dies or becomes incapacitated from any cause from continuing to sit or act on the jury, or if it is discovered that a juror has an interest in the result of the proceeding, or is a relative within the degree of first cousin of any of the parties the judge may discharge such juror, and may direct that the trial or assessment shall proceed on such terms as he deems just with eleven jurors, and in such case ten jurors may give the verdict or answer the questions submitted to the jury. R.S.O. 1927, c. 88, s. 60.

Death or illness of juror or discovery of interest during trial.

**59.**—(1) In the absence of a direction to the contrary of the judge, a jury may give a general or special verdict, but shall give a special verdict if he so directs and shall not give a general verdict if directed by him not to do so.

General or special verdict may be given unless judge otherwise directs.

(2) This section shall not apply to actions of libel. R.S.O. 1927, c. 88, s. 61.

Not to apply to actions of libel.

**60.**—(1) Upon a trial by jury, except in an action for libel, the judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact stated to them by him; and the jury shall answer such questions, and shall not give any verdict.

Except in actions of libel, the jury may be directed to answer questions.

(2) Judgment may be directed to be entered on the answers to such questions. R.S.O. 1927, c. 88, s. 62.

Judgment may be entered on answers.

#### ACTIONS FOR MALICIOUS PROSECUTION.

**61.** In actions for malicious prosecution, the judge shall decide all questions both of law and fact necessary for determining whether or not there was reasonable and probable cause for the prosecution. R.S.O. 1927, c. 88, s. 63.

Question of reasonable and probable cause to be decided by judge.

#### QUASHING CONVICTIONS, ETC.

**62.**—(1) Where it is desired to move to quash a conviction, order, warrant or inquisition, the proceeding shall be by motion in the first instance instead of by *certiorari*, rule or order *nisi*.

Procedure substituted for certiorari, etc.

(2) Notice of the motion shall be served at least six days before the return day thereof upon the magistrate making the conviction or order, or issuing the warrant, or the coroner making the inquisition, and also upon the prosecutor or informant, if any, and upon the clerk of the peace if the proceedings have been returned to his office, and the notice shall specify the objections intended to be raised.

Service of notice of motion.

Endorsement on notice of motion.

(3) Upon the notice of motion shall be endorsed a copy of subsection 4 and a notice in the following form, addressed to the magistrate, coroner, or clerk of the peace, as the case may be:

Form.

"You are hereby required forthwith after service hereof to return to the Central Office at Osgoode Hall, Toronto, the conviction (*or as the case may be*) herein referred to, together with the information and evidence, if any, and all things touching the matter, as fully and entirely as they remain in your custody, together with this notice.

"Dated

"To A. B.

"Magistrate (*or as the case may be*).

"C. D.,

"Solicitor for the Applicant."

Return by magistrate, etc.

(4) Upon receiving the notice so endorsed, the magistrate, coroner or clerk of the peace shall forthwith return to the Central Office, the conviction, order, warrant or inquisition, and the information and evidence, if any, and all things touching the matter, and the notice served upon him with a certificate endorsed upon it in the following form:

Form.

Pursuant to the within notice I herewith return to this Honourable Court the following papers and documents:—

"1. The conviction (*or as the case may be*);

"2. The information and the warrant issued thereon;

"3. The evidence taken at the hearing;

"4. (*Any other papers or documents touching the matter*).

"And I hereby certify to this Honourable Court that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in this notice of motion."

Effect of certificate.

(5) The certificate shall have the same effect as a return to a writ of *certiorari* or to an order under the rules.

Notice returnable before judge in chambers.

(6) The notice shall be returnable before a judge of the High Court sitting in chambers.

Limitation of time for proceedings.

(7) The motion shall not be entertained—

(a) unless the return day thereof is within six months after the conviction, order, warrant or inquisition; and

Security to be given.

(b) the applicant is shown to have entered into a recognizance with one or more sufficient sureties in the sum of \$100 before a magistrate of the county within which the conviction, order or inquisition was made or the warrant was issued, or before a judge of the county court of that county or before a judge of the High Court, conditioned that the applicant will prosecute the application at his own costs and charges without any wilful or affected

delay and that he will pay to the person in whose favour the conviction, order or other proceeding is affirmed his full costs and charges to be taxed according to the course of the court in case the conviction, order or other proceeding is affirmed, or has paid into court the like sum as security that he will do so.

(8) The recognizance, with an affidavit of its due execution shall be filed with the Registrar of the Supreme Court. Recognizance to be filed.

(9) The judge shall have all the powers of the court in the like matters and may order the production of papers and documents as he may deem necessary. Powers of judge.

(10) No appeal from the order of the judge shall lie unless leave is granted by a judge of the High Court. R.S.O. 1927, c. 88, s. 64. No appeal without leave.

**63.** Upon a motion to quash a conviction it shall be the duty of the judge to examine and consider the proceedings returned to the court and if such proceedings show that the person accused has been convicted of any offence known to the law, and that there is any evidence to sustain the conviction, such conviction shall be affirmed, but otherwise such conviction shall be quashed; provided, however, that if the evidence returned shows that the accused is guilty of an offence against the law, or that the conviction, though irregular, ought to be amended or drawn so as to duly describe such offence, the conviction shall be affirmed or amended as justice may require. R.S.O. 1927, c. 88, s. 65. Review of proceedings on motion to quash conviction.

#### REFERENCES TO OFFICIAL AND SPECIAL REFEREES.

**64.**—(1) Subject to the rules and to any right to have particular cases tried by a jury, a judge of the High Court may refer any question arising in an action for inquiry and report either to an official referee or to a special referee agreed upon by the parties. Reference for inquiry and report.

(2) Subsection 1 shall not, unless with the consent of His Majesty, authorize the reference to an official referee of an action to which His Majesty is a party or of any question or issue therein. R.S.O. 1927, c. 88, s. 66. Where Crown interested.

**65.** In an action,

(a) if all the parties interested who are not under disability consent, and where there are parties under

Power to refer in certain cases.

disability the judge is of opinion that the reference should be made and the other parties interested consent; or,

(b) where a prolonged examination of documents or a scientific or local investigation is required which cannot, in the opinion of a Court or a judge conveniently be made before a jury or conducted by the Court directly; or,

(c) where the question in dispute consists wholly or partly of matters of account,

a judge of the High Court may at any time refer the whole action or any question or issue of fact arising therein or question of account either to an official referee or to a special referee agreed upon by the parties. R.S.O. 1927, c. 88, s. 67.

Reference of  
boundary  
line question  
to surveyor.

**66.**—(1) In any action if it appears that a material question to be determined is the true definition of a boundary line, such question may be referred to a special referee, who shall be an Ontario land surveyor.

Proceedings.

(2) The referee shall, by a proper survey as directed by *The Surveys Act*, and upon hearing the evidence adduced by the parties and their counsel, if any, define upon the ground by such posts and monuments as he deems sufficient, the true boundary or division line so in dispute.

Rev. Stat.,  
c. 232.

Report.

(3) The referee shall make a report to the court and shall therein set forth his mode of procedure and what he has done in the premises, and also such further or other facts and circumstances as may be necessary to enable the court to finally determine the question and how the costs should be borne. R.S.O. 1927, c. 88, s. 68.

Special  
referee to  
be an officer  
of the  
court.

**67.**—(1) In the case of a reference to a special referee he shall be deemed to be an officer of the Court.

Remunera-  
tion of  
special  
referee.

(2) The remuneration to be paid to a special referee may be determined by a judge of the High Court.

Scale of  
remunera-  
tion of  
referee.

(3) The remuneration, fees, charges and disbursements payable to an official referee, and, in the absence of any special direction, to a special referee shall be the same as are payable to a local master.

No fees  
when whole  
action is  
referred to  
officer of  
court.

(4) Where the judge at the trial instead of trying an action refers the whole action under the provisions of section 65 to an official referee who is a local registrar or deputy



registrar, a local master or other officer of the court, paid wholly or partly by salary, no fees, either in law stamps or otherwise, shall be charged by the referee. R.S.O. 1927, c. 88, s. 69.

**68.** The referee shall make his findings and embody his conclusions in the form of a report, and his report shall be subject to all the incidents of a report of a master on a reference as regards filing, confirmation, appealing therefrom, motions thereupon and otherwise, including appeals to the Court of Appeal. R.S.O. 1927, c. 88, s. 70.

Referee to make report.

**69.** The evidence of witnesses examined upon the reference, and the exhibits shall forthwith, after the making of the report, be transmitted by the referee to the proper officer of the Court. R.S.O. 1927, c. 88, s. 71.

Transmission of evidence and exhibits.

#### SURETY COMPANIES.

**70.—(1)** In this section “surety company” shall mean an incorporated company empowered to give bonds by way of indemnity.

“Surety company.”

(2) The Lieutenant-Governor in Council may direct that the bond of any surety company named in the Order-in-Council may be given as security in all cases where security is ordered to be given by any court or by any judge or officer of any court, and in all cases where security for the cost of an appeal, or for the prosecution of the appeal, is required by any law, rule or practice.

Bonds of company may be taken as security.

(3) Every order-in-council made under subsection 2 shall forthwith be published in the *Ontario Gazette* and shall be laid before the Assembly within fifteen days after the making thereof if the Assembly is then in session, and if it is not in session, within fifteen days after the opening of the next session.

Order-in-Council approving of company to be published in Gazette.

(4) The bond of any surety company named in the Order-in-Council shall be sufficient without any other surety joining in the bond, and an affidavit of justification shall not be necessary.

Other surety or affidavit of justification not required.

(5) Notwithstanding anything in this section, any judge or any officer having jurisdiction in the matter, may in his discretion disallow any such bond on a motion to disallow it, and upon any evidence which may be deemed sufficient. R.S.O. 1927, c. 88, s. 72.

Disallowance of bond on motion.

## PHYSICAL EXAMINATION OF PARTIES.

Physical examination of party by medical practitioner.

**71.**—(1) In any action or proceeding for the recovery of damages or other compensation for or in respect of bodily injury sustained by any person, the court which, or the judge, or the person who by consent of parties, or otherwise, has power to fix the amount of such damages or compensation, may order that the person in respect of whose injury damages or compensation are sought shall submit himself to a physical examination by a duly qualified medical practitioner or by more than one duly qualified medical practitioner, but no medical practitioner shall be appointed to make such examination who is a witness on either side.

(2) The court, judge or other person may order the second examination or further examinations upon such terms as to costs as may be deemed proper. R.S.O. 1927, c. 88, s. 73 (1); 1930, c. 22, s. 2 (1).

Medical practitioner to be selected by judge and may be a witness.

(3) Every such medical practitioner shall be selected by the court, judge, or person, making the order, and may afterwards be a witness on the trial unless the court, judge or person before whom the action or proceeding is tried otherwise directs. R.S.O. 1927, c. 88, s. 73 (2); 1930, c. 22, s. 2 (2).

## TENDER OF AMENDS IN CASE OF TORTS.

Tender of amends in case of torts.

**72.** A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends; and the tender shall have the same effect as a tender in an action for the recovery of a debt. R.S.O. 1927, c. 88, s. 74.

## VESTING ORDERS.

Vesting order, effect of.

**73.** Where the court has authority to direct the sale of any lands or personal property or to order the execution of a deed, conveyance, transfer or assignment of any property, real or personal, the court may by order vest such real or personal property in such person, and in such manner, and for such estates, as would be done by any such deed, conveyance, assignment or transfer if executed; and the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise, for the same estate or interest, to the person in whom the same is so ordered to be vested, or in case of a chose in action, as if it had been actually assigned to such last mentioned person. R.S.O. 1927, c. 88, s. 75.

## JUDGMENTS FOR ALIMONY.

**74.**—(1) An order or judgment for alimony may be registered in any registry office in Ontario, and the registration shall, so long as the order or judgment remains in force, bind the estate and interest which the defendant has in any land in the registry division in which the registration is made, and operate thereon in the same manner and with the same effect as the registration of a charge by the defendant of a life annuity on his land.

Judgment  
for alimony  
may be  
registered.

(2) The order or judgment may also, on the application of the plaintiff, be registered as a charge against any lands of the defendant registered under *The Land Titles Act*.

Registration  
of order.  
Rev. Stat.,  
c. 174.

(3) The court may direct a sale of the land upon a summary application in the alimony action upon notice to all persons interested in the land. R.S.O. 1927, c. 88, s. 76.

Sale of  
land.

## COSTS.

**75.**—(1) Subject to the express provisions of any statute, the costs of and incidental to all proceedings authorized to be taken in court or before a judge shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and to what extent the costs shall be paid.

Costs.

(2) Nothing herein shall deprive a trustee, mortgagee or other person of any right to costs out of a particular estate or fund.

Right of  
trustee or  
mortgagee  
preserved.

(3) Where an action or issue is tried by a jury, the costs shall follow the event, unless the judge before whom the action or issue is tried in his discretion otherwise orders.

When costs  
to follow  
the event.

(4) Costs of proceedings before judicial officers, unless otherwise disposed of, shall be in their discretion subject to appeal. R.S.O. 1927, c. 88, s. 77.

In proceed-  
ings before  
judicial  
officers.

## PRACTICE AND PROCEDURE.

**76.** Subject as to appeals under *The Controverted Elections Act* to the provisions of that Act, and as to appeals and applications for a new trial to the court under the *Criminal Code* to the provisions of that Act, the practice and procedure upon appeals to the Court of Appeal shall be that provided by the rules. R.S.O. 1927, c. 88, s. 78.

Practice and  
procedure.

Rev. Stat.,  
c. 11.

R.S.C. 1927,  
c. 36.

## OFFICES AND OFFICERS.

Officers of  
Supreme  
Court.

**77.**—(1) There shall be such officers of the Supreme Court as may be deemed necessary by the Lieutenant-Governor in Council for the due dispatch of the business of the court, and such officers, subject to the provisions of section 95 as to special examiners, shall be appointed by the Lieutenant-Governor in Council.

Duties.

(2) The duties of the officers shall be regulated by the rules and by the terms of any Order-in-Council governing such officers.

Term of  
office.

(3) All persons holding office at the time of the coming into force of this Act shall continue to hold office until otherwise directed by Order-in-Council. R.S.O. 1927, c. 88, s. 79.

Powers of  
Assistant  
Masters.

(4) Where under any statute, rule or order, or in any action or proceeding, anything is directed to be done by the Master of the Supreme Court, any assistant master shall have, and shall be deemed to have always had, power to act as fully and effectually as the Master of the Supreme Court. 1934, c. 54, s. 13.

Oath of  
officers.

**78.**—(1) Every officer hereafter appointed shall, before entering upon the duties of his office, take and subscribe the following oath:—

Form.

“I, A. B., of \_\_\_\_\_ solemnly swear that I will according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfill the duties of the office of \_\_\_\_\_ without favour or affection, prejudice or partiality, to any person. So help me God.”

Oath to be  
administered  
by a judge  
in court.

(2) The oath shall be administered by a judge in court.

Exception  
where in-  
convenient  
for officer  
to attend  
at Toronto.

(3) Where it is not convenient for a person appointed to an office to attend at Toronto to take the oath, it may be taken before the judge of the county court of the county in which the officer resides.

Oath to be  
transmitted  
to, and filed  
in Central  
Office.

(4) Where the oath is taken in accordance with subsection 3, the judge before whom it is taken shall forthwith transmit the oath to and it shall be filed in the Central Office. R.S.O. 1927, c. 88, s. 80.

Appoint-  
ment of  
deputies by  
local regis-  
trars, etc.

**79.** With the approval of the Lieutenant-Governor in Council every local officer of the Supreme Court, county court clerk, and surrogate registrar, may, by writing under



his hand and seal of office, appoint a deputy who may perform all the duties required to be performed by the officer making the appointment. R.S.O. 1927, c. 88, s. 81.

OFFICERS PAID BY SALARY NOT TO TAKE FEES.

**80.**—(1) Except where in this Act it is otherwise expressly provided, an officer who is paid by salary shall not take for his own benefit, directly or indirectly, any fee or emolument except the salary to which he is entitled, and the fees payable in respect of proceedings in his office shall be payable to the Crown. R.S.O. 1927, c. 88, s. 82 (1). Officers paid by salary not to take fees.

(2) Subsection 1 shall not apply to the fees of— Exceptions.

- (a) A local registrar on an examination had before him as a special examiner or on a reference made to him as an official referee.
- (b) A stenographic reporter for copies of shorthand notes of evidence, who shall be entitled to take the fees prescribed by Order-in-Council. R.S.O. 1927, c. 88, s. 82 (2); 1931, c. 24, s. 11.

RETURN OF FEES.

**81.**—(1) Every officer paid wholly or partly by fees, whether commuted or not, shall on or before the 15th day of January in every year, transmit to the Inspector of Legal Offices a just, true and faithful account, verified by his oath, of the amount of fees paid or payable to him in cash or in law stamps, in respect of his office during the next preceding calendar year, and such other particulars with reference to the business of his office as the Inspector may require. Return of fees.

(2) The Lieutenant-Governor in Council or the Minister having charge of the matter may require the return to state any particulars, or to be made in any form which may be deemed proper, and the return shall be made accordingly. R.S.O. 1927, c. 88, s. 83. Form of return may be prescribed.

WHERE OFFICES TO BE KEPT.

**82.** The officers in Toronto save the Official Guardian, special examiners, stenographic reporters, and any official referee other than one holding that office *ex officio*, shall keep their offices at Osgoode Hall, in the City of Toronto. Certain officers in Toronto to keep their offices at Osgoode Hall. R.S.O. 1927, c. 88, s. 84.

Local master  
to keep office  
in county  
town.

**83.** Unless otherwise directed by the Lieutenant-Governor in Council every local master shall keep his office in the county town of the county for which he is appointed. R.S.O. 1927, c. 88, s. 85; 1928, c. 21, s. 4.

Certain  
offices to be  
kept at  
court house.

**84.**—(1) Subject to subsection 2, every local registrar, and every deputy registrar shall, if proper accommodation is afforded to him there, keep his office in the court house of the county for which he is appointed, and until he can obtain such accommodation he shall keep his office in some convenient place in the county town.

Exception  
(Essex).

(2) The local registrar at Sandwich may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the council of the County of Essex may assent to, and the Lieutenant-Governor in Council may approve. R.S.O. 1927, c. 88, s. 86.

#### OFFICE HOURS.

Office hours.

**85.** Except on holidays, and subject to the rules, the offices of the local registrars, and deputy registrars and those of the Supreme Court and of both divisions of it at Osgoode Hall, shall be kept open from ten o'clock in the forenoon until four o'clock in the afternoon, except on Saturdays, when the offices shall be kept open until one o'clock in the afternoon. R.S.O. 1927, c. 88, s. 87.

Rev. Stat.,  
c. 103.

(NOTE.—*As to clerks of county courts see The County Courts Act, s. 7, and as to registrars of surrogate courts see Surrogate Court Rules.*)

#### SECURITY FROM OFFICERS.

Officers to  
give security,  
if required.

**86.**—(1) Every officer of the Supreme Court, if and when so required by the Lieutenant-Governor in Council, shall give security to His Majesty for the due performance of the duties of his office in such sum as the Lieutenant-Governor in Council may direct.

Conse-  
quences of  
neglecting  
to do so.

(2) The neglect to give such security shall render the appointment of the officer void, but the forfeiture of office shall not affect any act done by him while he continues to act. R.S.O. 1927, c. 88, s. 88.

#### SEALS OF OFFICERS OUT OF TORONTO.

Seals of  
local  
registrars  
and  
deputy  
registrars.

**87.**—(1) In the offices of the local registrars, and deputy registrars, such seals shall be used as the Lieutenant-Governor in Council shall from time to time direct, and the same shall be impressed on every writ and other document issued out of such office; and every such writ and document, and every

exemplification and copy thereof purporting to be sealed with such seal shall be received in evidence in all courts without further proof thereof.

(2) Until other seals are authorized by the Lieutenant-Governor in Council, the seals now in use shall continue to be used. R.S.O. 1927, c. 88, s. 89. Seals to be used.

#### OFFICIAL REFEREES.

**88.**—(1) Judges of county courts, the Master of the Supreme Court, registrars, local masters, local registrars, and deputy registrars shall be official referees for the trial of such questions as may be directed to be tried by an official referee. Official referees.

(2) Where the business requires additional official referees, the Lieutenant-Governor in Council may appoint them. Additional referees.

(3) Subject to subsection 4 of section 67 in the case of officers who are paid by salary, the fees on a reference or trial shall be paid in law stamps; other referees shall be paid in money. R.S.O. 1927, c. 88, s. 90. Fees of referees.

#### CERTAIN LOCAL MASTERS NOT TO PRACTISE.

**89.**—(1) A local master whose gross income from his office of local master or of deputy registrar and local master is \$2,000 or upwards, and any other local master as to whom the Lieutenant-Governor in Council shall so direct, shall not, directly or indirectly, practise the profession of the law as counsel, or solicitor, or act as a notary public, or conveyancer, or do any manner of conveyancing, or prepare any paper or document to be used in any court. Certain local masters, not to practise.

(2) Every person who contravenes the provisions of subsection 1 shall incur a penalty of \$400. Penalty.

(3) The Lieutenant-Governor in Council may relieve any local master from the prohibition of this section. R.S.O. 1927, c. 88, s. 91. Relief.

#### VACANCY IN OFFICE OF LOCAL MASTER.

**90.** Where a vacancy occurs in the office of local master, the judge of the county court of the county shall be the local master until and unless another person is appointed local master, and if there are two judges, both of them shall be local masters until and unless one of them or some other person is appointed sole local master. R.S.O. 1927, c. 88, s. 92. Vacancy in office of local master.

## APPOINTMENT OF LOCAL MASTER PRO TEMPORE.

When judge  
of county  
court may  
act for  
local master.

**91.** In case of the illness or absence of a local master or upon his request in writing, filed with the local registrar, a judge, or deputy judge of the county court of the county, after approval by the Lieutenant-Governor in Council, may act as such local master. R.S.O. 1927, c. 88, s. 93.

## LOCAL REGISTRARS, EX OFFICIO.

Clerks of  
district  
courts to be  
local  
registrars.

**92.** Unless another person is appointed, the clerk of the district court shall *ex officio* be local registrar for his district. R.S.O. 1927, c. 88, s. 94.

## STENOGRAPHIC REPORTERS.

Steno-  
graphic  
reporters.

**93.**—(1) The stenographic reporters shall be officers of the court to which they are appointed, and shall perform such other duties as may be assigned to them by the Lieutenant-Governor in Council or by the rules.

Reporter's  
oath.

(2) Every such reporter shall take and subscribe the following oath before a judge of the court to which he is appointed, and the oath shall be filed with the proper officer of that court:—

Form.

"I (A. B.), solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings in each case in which I act as stenographic reporter. So help me God."

R.S.O. 1927, c. 88, s. 95.

Reporters  
for county  
and surro-  
gate courts.

**94.** The Lieutenant-Governor in Council may appoint a stenographic reporter for any county court or surrogate court and the provisions of section 93 shall apply to a stenographic reporter so appointed. R.S.O. 1927, c. 88, s. 96.

## SPECIAL EXAMINERS.

*Ex officio*  
special  
examiners.

**95.**—(1) Every local registrar, deputy registrar, and clerk of the county court shall *ex officio* be a special examiner for the county for which he is appointed.

Appoint-  
ment of  
special  
examiners.

(2) The judges of the Supreme Court may appoint special examiners for the purpose of taking evidence of parties and witnesses, and a commission under the seal of the Court shall be issued to a special examiner so appointed.

Number.

(3) There shall be but four special examiners in Toronto.



(4) Where an examination is taken by a stenographer or other person who is not a special examiner, it shall be taken in the presence of the special examiner. Examination to be taken in presence of special examiner.

(5) A special examiner shall not solicit or make request from any suitor, solicitor, or other person, or offer any inducement to have a special examination taken before him, nor shall any one do so on his behalf with his knowledge or assent, on pain of forfeiture of office. Examinations, not to be solicited.

(6) Where it appears to the Lieutenant-Governor in Council that a local registrar, a deputy registrar, or a clerk of a county court, elsewhere than in Toronto, is infirm or ill, or is otherwise unable or unfit to act personally as special examiner, or if he is absent on leave, the Lieutenant-Governor in Council may appoint the stenographic reporter for the county court, or some other person to act temporarily or otherwise as such special examiner in his stead. Appointment of special examiners, *pro tem.*

(7) In case of the absence on leave or illness of any other special examiner he may, with the approval of the Chief Justice of Ontario, appoint a deputy to act for him during such absence or illness. Appointment of deputy by special examiner. R.S.O. 1927, c. 88, s. 97.

#### COMMUTATION OF FEES OF CERTAIN OFFICERS.

**96.**—(1) The Lieutenant-Governor in Council may commute the fees payable to any officer entitled to take fees to his own use for a fixed annual sum, not exceeding the average income derived from such fees during the next preceding five years. Commutation of fees of certain officers.

(2) An annual sum so fixed, and any Order-in-Council for payment of any such annual sum may be rescinded, and the amount may be increased or diminished, but in no case shall it exceed the average income or fees, as the case may be, during the next preceding five years. Amount of commutation may be changed. R.S.O. 1927, c. 88, s. 98.

**97.**—(1) Every Order-in-Council, determining any commutation allowance under the authority of this Act, shall be laid before the Assembly forthwith, if the Assembly is then in session, and if the Assembly is not then in session, within the first fifteen days after the opening of the next session. Order-in-Council as to commutations to be laid before Assembly.

(2) If the Assembly at such session, or if the session does not continue for three weeks after the Order-in-Council is laid before the Assembly, then at the next ensuing session, disapproves by resolution of such Order-in-Council, either wholly or so far as relates to any person named in it, the Order-in- Disapproval by Assembly.

Council, so far as so disapproved, shall have no effect from the time of the passing of the resolution. R.S.O. 1927, c. 88, s.99.

INSPECTOR OF LEGAL OFFICES.

Inspector  
of Legal  
Offices.

**98.** The Lieutenant-Governor in Council may appoint an officer to be called "The Inspector of Legal Offices," to inspect the offices of the Supreme Court, of local courts, of Crown attorneys, and such other offices connected with the administration of justice as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 88, s. 100.

Duties of  
Inspector.

**99.**—(1) In addition to any other duties assigned to him by any Act of this Legislature or which may be assigned to him by the Lieutenant-Governor in Council, the Inspector shall—

- (a) make a personal inspection of the offices mentioned in section 98 and of the books and court papers belonging to them;
- (b) see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times and in proper form and order, and that the court papers and documents are properly classified and preserved;
- (c) ascertain that the duties of the officers are duly and efficiently performed;
- (d) see that proper costs and charges only are allowed or exacted;
- (e) ascertain whether uniformity of practice prevails in the offices; and
- (f) report upon all such matters to the Lieutenant-Governor.

Inquiries by  
Inspector.

(2) Where the Inspector has occasion to inquire into the conduct of any officer in relation to his official duties or acts, he may require such officer, or any other person to give evidence before him on oath, and for that purpose he shall have the same power to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents and to give evidence, as any court has in civil cases.

(3) The officers shall, when and as often as required by the Inspector, produce for examination and inspection all books and documents which are required to be kept by them, and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector shall require. R.S.O. 1927, c. 88, s. 101.

Books, etc.,  
to be pro-  
duced for  
inspection.

(NOTE: *As to authority of Inspector to direct law stamps to be affixed to proceedings not properly stamped, see The Law Stamps Act, section 11.*)

Rev. Stat.,  
c. 27.

#### OFFICIAL GUARDIAN.

**100.**—(1) No person shall be appointed Official Guardian unless he is a barrister at law and solicitor of Ontario of not less than ten years standing.

Qualification  
of Official  
Guardian.

(2) The Official Guardian shall be the guardian *ad litem* of infants and shall perform such other duties as may be assigned to him by the rules.

Duties.

(3) The same costs as are payable to counsel and solicitors shall be payable to the Official Guardian, but all costs paid to him by any party shall forthwith be paid into court by the Official Guardian and shall be placed to the credit of an account to be entitled "Account of Official Guardian," and all costs payable to the Official Guardian out of any fund in Court shall be transferred to the credit of the same account.

Costs pay-  
able to  
Official  
Guardian  
to be paid  
into court.

(4) Where an estate is small, and the amount at the credit of the account of the Official Guardian is adequate to pay his salary and the disbursements of his office, the court may direct that no costs shall be paid to him out of the estate.

Dispensing  
with pay-  
ment of  
costs out of  
small estates.

(5) There shall be paid to the Official Guardian for all business done and all costs in respect of it over and above all disbursements, a fixed annual salary of such sum as, in view of the amount of the business done or to be done by him and the sum at the credit of the account, the judges of the Supreme Court deem reasonable and the Lieutenant-Governor in Council approves.

Remunera-  
tion of  
Official  
Guardian.

(6) The salary and disbursements shall be paid monthly out of the money at the credit of the account, and out of the surplus at the credit of the account shall be transferred to the Suitors Fee Fund Account such amount as the finance committee may direct.

Salary and  
disburse-  
ments to be  
paid  
monthly.

Deficiency to be paid out of Suitors Fee Fund Account.

(7) If in any year the amount at the credit of the account is insufficient to pay the salary and disbursements the deficiency shall be paid out of such reserve funds as the finance committee may direct.

Deputy Official Guardian.

(8) Subject to the approval of the Lieutenant-Governor in Council, the Official Guardian may appoint a deputy to act for him when he may be absent from Toronto, or ill, and such deputy shall have all the powers and shall perform all the duties of the Official Guardian during any such absence or illness.

Qualification of Deputy.

(9) No person shall be appointed as such deputy unless he is a barrister at law and solicitor of Ontario of not less than ten years' standing.

Employment of solicitor out of Toronto.

(10) The Official Guardian may employ as agents, solicitors out of Toronto for the purpose of any proceeding being carried on out of Toronto, and a solicitor so appointed shall be entitled to the same costs for the work actually done by him as the Official Guardian would have been entitled to if the work had been done by him, and such costs shall be paid to the solicitor and shall be deemed to be a disbursement of the Official Guardian.

Half-yearly statement of costs received to be made and filed.

(11) The Official Guardian shall once in every six months file in the office of the Accountant a statement verified by his affidavit showing in detail all costs received by him as Official Guardian during the next preceding six months and the names of the actions and matters in which the same were received together with the date of receipt.

Official Guardian not to practise if Lieutenant-Governor in Council so directs.

(12) If the Lieutenant-Governor in Council so directs, the Official Guardian shall not directly or indirectly practise the profession of the law as counsel or solicitor or act as a notary public or conveyancer or do any matter of conveyancing or prepare any paper or document to be used in any court of Ontario except in the discharge of his duties as Official Guardian or of a duty which may be assigned to him under the authority of this Act.

Penalty.

(13) For every contravention of subsection 12 the Official Guardian shall incur a penalty of \$400.

Official Guardian not to give security for costs.

(14) Unless otherwise ordered by the court or a judge the Official Guardian shall not be required to give security for the costs of any proceeding.



(15) The Accountant shall, on or before the 15th day of January in every year, transmit to the Provincial Secretary a statement certified by him to be a true statement, showing the state of the account of Official Guardian on the 31st day of the next preceding December.

Return by  
Accountant  
as to state  
of account  
of Official  
Guardian.

(16) When a new Official Guardian is appointed he shall *ipso facto* become and be by virtue of his appointment guardian *ad litem* of all infants in the place and stead of his predecessor with the same rights, duties and powers, and the latter or his executors or administrators shall forthwith deliver to the new Official Guardian all letters, papers, documents and books in his or their possession or power relating to matters in which such predecessor acted as official or other guardian *ad litem* of infants, and the new Official Guardian shall forthwith notify all persons concerned of his appointment. R.S.O. 1927, c. 88, s. 102.

New Official  
Guardian.

#### ACCOUNTANT.

**101.**—(1) The Accountant of the Supreme Court shall be a corporation sole by the name of "The Accountant of the Supreme Court of Ontario," and as such corporation sole shall have perpetual succession and may sue and be sued and may plead and be impleaded in any of His Majesty's Courts.

Accountant  
to be a cor-  
poration  
sole.

(2) All money, mortgages, stocks, securities and property now vested in the Accountant, as such corporation sole, shall continue to be so vested in him, and all money in court and all securities in which money paid into court is invested shall be vested in him as such corporation sole, subject to the provisions of this Act.

Money,  
mortgages,  
etc., to be  
vested in  
Accountant.

(3) Where there is a vacancy in the office of Accountant, such officer or person as may be directed by the rules to perform the duties of the office shall be deemed to be and shall have all the powers of the Accountant.

Where there  
is no Ac-  
countant,  
officer  
designated  
by the Rules  
shall be the  
Accountant.

(4) The expenses of the Accountant's office including all salaries shall be the first charge on the income from the funds in court. R.S.O. 1927, c. 88, s. 103.

Expenses of  
Accountant's  
office.

#### INVESTMENT OF COURT FUNDS.

**102.**—(1) The judges of the Supreme Court may delegate to a committee of themselves appointed for that purpose, to be called "The Finance Committee," the control and manage-

Finance  
Committee  
of Judges.

ment of the money in court and the securities in which it is invested and the investment of such money.

Reserve funds.

(2) The finance committee may establish such reserve funds as they may deem expedient in the management of the money in court.

Investment of Court funds.

(3) Money paid into court shall be invested in the name of the Accountant of the Supreme Court of Ontario, and may be invested in such of the securities in which a trustee may under *The Trustee Act* invest, as may from time to time be directed by the judges of the Supreme Court or by the finance committee.

Rev. Stat., c. 165.

Investment in provincial securities etc.

(4) The Lieutenant-Governor in Council may direct that any part of such money which is available for investment shall be invested in securities issued by the Province of Ontario or in securities the payment of which is guaranteed by it.

Debentures invested in not to be open to question.

(5) Where an investment in debentures of a municipal corporation is made, the validity of the debentures shall not thereafter be open to question but they shall be deemed to be valid.

Trust corporation may be employed.

(6) The judges of the Supreme Court, or the finance committee may employ a trust company to make the investments of money paid into court or as custodian of the securities representing investments of such money, on such terms and conditions as may be agreed on.

Investment of Court funds.

(7) When an amount exceeding \$50,000 is in court to the credit of an account for investment the Accountant may, if so directed by the finance committee, notwithstanding any order for payment out of court, withhold payment for three months to enable him to realize upon the securities in which money in court is invested. R.S.O. 1927, c. 88, s. 104.

Money, etc., vested in Accountant, Guardian, etc., to be deemed to be held in trust for Crown.

**103.** All money, securities, effects and real or personal property vested in or held by the Accountant or by the Official Guardian shall be deemed to be vested in them in trust for His Majesty, but may, nevertheless, be paid out, sold, disposed of, assigned, conveyed or dealt with in accordance with any statute or the rules, or with any judgment, or order of court, or order of the Lieutenant-Governor in Council. R.S.O. 1927, c. 88, s. 105.

Payment of moneys to which foreigners are entitled.

**104.** Where persons who are subjects of any foreign country having a consul in Canada authorized to act as the official representative of such subjects, are entitled to moneys

which have been paid into court, or are in the hands of an executor or administrator, such moneys may be paid to the said consul. R.S.O. 1927, c. 88, s. 106.

#### SUITORS FEE FUND ACCOUNT.

**105.** The suitors fee fund account shall be kept and managed by the finance committee and the Court of Appeal or any judge of the Supreme Court may with the approval of the finance committee apply so much of the money at the credit of the account as may be necessary for the protection of any infant or other person not *sui juris* or *non compos mentis*, on whose behalf proceedings may be had in the court, or may be ordered to be had in another court, and the finance committee may also, from time to time, order to be paid, out of the money at the credit of the account, any sum required to make good a default in respect of any suitor's money or securities from any mistake, act or omission of any officer of the court, but such payment shall not prejudice the right to require the officer or his sureties to make good the loss occasioned by the mistake, act or omission. R.S.O. 1927, c. 88, s. 107.

Suitors  
fee fund.

Certain  
losses may  
be charged  
on suitors  
fee fund.

#### RULES OF COURT.

**106.**—(1) The rules of practice and procedure including the tariffs of fees and costs proclaimed by the Lieutenant-Governor in Council under the authority of *The Judicature Act*, being chapter 19 of the statutes of 1913, and all amendments made to such rules by the judges are confirmed and declared to have the same force and effect as if they were embodied in this Act, but the judges may nevertheless from time to time pass rules repealing, amending or varying the same.

Rules of  
court.

(2) The judges of the Supreme Court may at any time amend or repeal any of the rules and may make any further or additional rules for carrying this Act into effect, and in particular for,—

Judges of  
Supreme  
Court may  
make rules.

- (a) regulating the sittings of the courts;
- (b) regulating the pleading, practice and procedure in the Supreme Court and in the county and surrogate courts;
- (c) allowing service out of Ontario;
- (d) prescribing and regulating the proceedings under any statute which confers jurisdiction upon the court or a judge;

- (e) fixing the vacations;
- (f) empowering the Master in Chambers, or any officer sitting for him, or the local judges, or the local masters in respect of actions brought in their counties, to do any such thing, and to transact any such business, and to exercise any such authority and jurisdiction in respect of the same as are or may be done, transacted, or exercised by a judge of the Supreme Court, in court, upon motions for judgment in undefended actions, for the appointment of receivers by way of equitable execution and for *ex parte* injunctions and upon motions in chambers or as shall be specified in the rules except in respect to matters relating to,—
  - (i) the liberty of the subject;
  - (ii) appeals and applications in the nature of appeals;
  - (iii) proceedings under *The Mental Incompetency Act*;
  - (iv) applications for advice under *The Trustee Act*;
  - (v) matters affecting the custody of children;
  - (vi) proceedings enabling infants to make binding settlements of their real and personal property on marriage;
- (g) generally for regulating any matters relating to the practice and procedure of the courts or to the duties of the officers thereof, or to the costs of proceedings therein, and every other matter deemed expedient for the better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts respecting such courts;
- (h) subject to the approval of the Lieutenant-Governor in Council for making rules from time to time regulating all fees payable to the Crown in respect of proceedings in any court.

Rev. Stat.,  
c. 110.

Rev. Stat.,  
c. 165.

Power to  
modify  
statutory  
provisions  
as to  
procedure.

(3) Where any provisions in respect of the practice or procedure are contained in any statute, rules may be made modifying such provisions to any extent that may be deemed



necessary for adapting the same to the general practice and usage of the court unless that power is expressly excluded.

(4) Any provisions relating to the payment, transfer or deposit into, or in, or out of any court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure. R.S.O. 1927, c. 88, s. 108.

Provisions as to payment into or out of court of money, etc.

#### COUNCIL OF JUDGES.

**107.**—(1) A council of the judges of the Supreme Court, of which due notice shall be given to all of them, shall assemble once at least in every year, on such day as shall be fixed by the Lieutenant-Governor in Council, for the purpose of considering the operation of this Act and of the rules, and the working of the offices and the arrangements relative to the duties of the officers of the court, and of enquiring and examining into any defects which may appear to exist in the system of procedure or the administration of justice in the Supreme Court or in any other court, or by any other authority.

Council of judges.

Purposes for which council to be held.

(2) The council shall report to the Lieutenant-Governor what amendments or alterations, if any, it would be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provision, if any, which cannot be carried into effect without legislative authority it would be expedient to make for the better administration of justice.

Council to report to Lieutenant-Governor.

(3) An extraordinary council for the purposes mentioned in subsection 1 may also at any time be convened by the Lieutenant-Governor in Council. R.S.O. 1927, c. 88, s. 109.

Extraordinary councils.

#### DELEGATION OF POWERS OF JUDGES.

**108.**—(1) Where by this or any other Act any power or authority is conferred upon the judges of the Supreme Court or upon the judges of the High Court as a body they may respectively delegate such power or authority to a committee of themselves and when it is exercised by the committee the acts done by the committee shall have the same effect as if they had been done by the body by which the committee was appointed.

Delegation of powers of judges.

(2) The presence of a majority of the members of the committee shall be necessary to constitute a quorum for the transaction of business.

Majority to be a quorum.

Application  
of subs. 1.

(3) Subsection 1 shall not apply to the making of rules under the powers conferred by section 106 or to a council of the judges provided for by section 107. R.S.O. 1927, c. 88, s. 110.

#### QUORUM OF MEETINGS OF JUDGES.

Quorum of  
meetings  
of judges.

**109.** Where by this Act any power is conferred on the judges of the Supreme Court or of the High Court, the power may be exercised at a meeting duly called at which in the case of the Supreme Court at least seven of the judges are present, and in the case of the High Court at least five of the judges are present. R.S.O. 1927, c. 88, s. 111.

#### LOCAL JUDGES OF THE HIGH COURT DIVISION.

County  
court  
judges to  
be local  
judges of  
High Court.

**110.**—(1) Except in the County of York, every judge of a county court shall be a local judge of the High Court for the purposes of his jurisdiction in actions in the Supreme Court, and may be styled a local judge of the Supreme Court, and shall, in all causes and actions in the Supreme Court, have, subject to the rules, power and authority to do and perform all such acts and transact all such business in respect to matters and causes in or before the High Court as he is or may be by statute or the rules empowered to do and perform. R.S.O. 1927, c. 88, s. 112.

Powers of  
county judge  
outside  
county for  
which he is  
appointed.

(2) Where a county court judge is authorized to exercise jurisdiction in a county other than the county for which he is appointed, he shall, while exercising jurisdiction in such county, have the like power as a local judge of the High Court as though he were a judge of the county court of such county. 1936, c. 31, s. 4.

#### SHERIFFS, ETC.

Sheriffs,  
gaolers, etc.,  
to obey  
orders of  
the court.

**111.** Sheriffs, deputy sheriffs, gaolers, constables and other peace officers, shall aid, assist and obey the Court and the judges thereof in the exercise of the jurisdiction conferred by this Act, and otherwise, whenever by the rules or by the order of the court or of a judge required so to do. R.S.O. 1927, c. 88, s. 113.

#### PRISONS OF THE COURT.

Gaols to be  
prisons of  
the court.

**112.** All gaols in Ontario shall be prisons of the court. R.S.O. 1927, c. 88, s. 114.

## OATHS AND AFFIDAVITS.

**113.** Every officer of the Supreme Court shall, for the purposes of any proceeding before him, have power to administer oaths and to examine parties and witnesses. R.S.O. 1927, c. 88, s. 115. Administration of oaths.

## WITNESS FEES.

**114.** A public official or other witness subpoenaed or called upon to produce before any court or other tribunal any public or other document shall not be entitled to more than ordinary witness fees, unless the court or other tribunal otherwise orders. R.S.O. 1927, c. 88, s. 116. Fees of certain officers producing documents.

## PROVISIONS APPLICABLE TO COUNTY COURTS.

**115.** In addition to the provisions of this Act which are expressly made applicable to all courts or county courts or are otherwise by their terms so applicable, sections 23, 31, 33, 36, 49 to 51, 57 to 61, 72, 73, 75, 111 and 112, shall *mutatis mutandis* apply to the county courts. R.S.O. 1927, c. 88, s. 117. Certain sections to apply to county courts.

## COMMISSIONS FOR HOLDING SITTINGS, ETC.

**116.** This Act shall not affect the power to issue commissions for the discharge of civil or criminal business on circuit or otherwise. R.S.O. 1927, c. 88, s. 118. Power to issue commissions not to be affected.

**117.** Any judge presiding at any sittings of the court or in chambers shall be deemed to constitute the court. R.S.O. 1927, c. 88, s. 119. Judge to constitute court.

## ACCESS TO CERTAIN BOOKS.

**118.**—(1) Every person shall have access to and be entitled to inspect the books of the Supreme Court and of the county courts, containing records or entries of the writs issued, judgments entered, and chattel mortgages and bills of sale filed, and no person desiring such access or inspection shall be required, as a condition of his right thereto, to furnish the names of the parties or the style of the causes or matters in respect of which such access or inspection is sought. All books in which writs, judgments, etc., are entered to be open to inspection.

(2) Every officer having the charge or custody of any such book shall upon request produce for inspection any writ of summons or copy thereof so issued, and any judg- Production of writs of summons, etc.

ment roll, or chattel mortgage, or bill of sale so filed in his office, or of which records or entries are, by law, required to be kept in such book.

Fees for inspection.

(3) The fees payable in respect of such inspection shall be twenty-five cents for a general search, and ten cents for each writ of summons, judgment roll, chattel mortgage or bill of sale inspected, and ten cents per folio shall also be payable for all extracts, whether made by the person making the search or by the officer.

Persons entitled to search and to copies of records of courts.

(4) A person affected by any record in any court, whether it concerns the King or other person, shall be entitled, upon payment of the proper fee, to search and examine the same and to have an exemplification or a certified copy thereof made, and delivered to him by the proper officer. R.S.O. 1927, c. 88, s. 120.

#### PLEADINGS TO BE IN ENGLISH.

Writs, pleadings, and proceedings to be in English.

**119.** Writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be in the same language as has been commonly used. R.S.O. 1927, c. 88, s. 121.

#### DEMISE OF CROWN.

Demise of Crown not to affect pending proceedings.

**120.** No action or other proceeding in any court shall be discontinued or stayed by reason of the demise of the Crown, but the same shall be proceeded with as if such demise had not happened. R.S.O. 1927, c. 88, s. 122.

#### SERVICE OF PROCESS ON THE LORD'S DAY.

Service of process on the Lord's Day (exception) void.

**121.** No person upon the Lord's Day shall serve or execute, or cause to be served or executed, any writ, process, warrant, order or judgment, except in cases of treason, felony, or breach of the peace, and the service of every such writ, process, warrant, order or judgment on the Lord's Day shall be void, and the person so serving or executing the same shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he had done the same without any writ, process, warrant, order or judgment. R.S.O. 1927, c. 88, s. 123.

Persons serving same liable to action.

#### ACTIONS ON BONDS.

In actions on bonds, etc., plaintiff may assign as many breaches as he pleases.

**122.—(1)** In an action commenced or prosecuted in any court upon a bond for non-performance of any covenant or agreement in any indenture, deed or writing the plaintiff may assign as many breaches as he thinks fit, and, upon trial of such action, not only such damages and costs as have here-



tofore been usually assessed shall be assessed, but also damages for such of the breaches so assigned as the plaintiff upon the trial of the issues shall prove, and the like judgment shall be entered as heretofore in such action.

Damages may be assessed.

(2) If judgment is given for the plaintiff by confession or default he may suggest as many breaches of the covenants and agreements as he thinks fit, and the damages that he shall have sustained thereby shall be assessed, and if the defendant after such judgment entered, and before any execution executed, pays into the court in which the action is brought to the use of the plaintiff such damages so to be assessed by reason of all or any of the breaches of such covenants or agreements, together with the costs of suit, a stay of execution on the judgment shall be entered upon record.

In what case if judgment for plaintiff, he may suggest as many breaches as he pleases.

Defendant paying damages and costs execution may be stayed;

(3) If, by reason of any execution executed the plaintiff or his executors or administrators are fully paid or satisfied all such damages so to be assessed, together with his or their costs of suit, and all reasonable charges and expenses for executing the execution the body, land or goods of the defendant shall be thereupon forthwith discharged from the execution, which shall likewise be entered upon record; but such judgment shall, nevertheless, remain, continue and be as a further security to answer to the plaintiff and his executors or administrators such damages as shall or may be sustained for further breach of any covenant or agreement in the same indenture, deed or writing contained upon which the plaintiff may apply to the court in which judgment is entered for leave to issue execution upon the judgment against the defendant, or his executors or administrators, suggesting other breaches of the covenants or agreements, and to call upon him or them to show cause why execution shall not be awarded upon the judgment, upon which the court shall make such order as may be deemed just.

Judgment to remain to answer any further breach

and plaintiff may apply to issue execution against defendant

(4) Upon payment or satisfaction of such future damages, costs and charges all further proceedings on the judgment are again to be stayed, and so *toties quoties*, and the defendant, his body, land or goods shall be discharged out of execution. R.S.O. 1927, c. 88, s. 124.

and so toties quoties.

#### SET OFF.

**123.** Where there are mutual debts between the plaintiff and defendant, or, if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party one debt may be set against the other. R.S.O. 1927, c. 88, s. 125.

Mutual debts to be set one against the other.

Mutual debts may be set off except where one accrues by reason of penalty.

**124.**—(1) Mutual debts may be set against each other, notwithstanding that such debts are deemed in law to be of a different nature, except where either of the debts shall accrue by reason of a penalty contained in any bond or specialty.

Judgment only for balance due after set off.

(2) Where either the debt for which the action is brought or the debt intended to be set against the same, has accrued by reason of any such penalty the debt intended to be set off shall be pleaded, and it shall be shown by the pleading how much is truly and justly due on either side, and if the plaintiff recovers in any such action judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff after one debt being set against the other. R.S.O. 1927, c. 88, s. 126.

Defendant to be entitled to judgment for balance due after set off.

**125.** If, upon a defence of set off, a larger sum is found to be due from the plaintiff to the defendant than is found to be due from the defendant to the plaintiff the defendant shall be entitled to judgment for the balance remaining due to him. R.S.O. 1927, c. 88, s. 127.

#### PAYMENT POST DIEM.

Plea of payment bar in action of debt, etc.

**126.** Where an action is brought upon any bill, or where action is brought upon any judgment, if the defendant has paid the money due upon such bill or judgment such payment may be pleaded in the action, and where an action is brought upon a bond which has a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors or administrators have, before the action brought, paid to the obligee, his executors or administrators the principal and interest due by the condition or defeazance of such bond, though such payment was not made strictly according to the condition or defeazance, yet it may nevertheless be pleaded in such action, and shall be as effectual a bar thereof as if the money had been paid at the day and place according to the condition or defeazance and had been so pleaded. R.S.O. 1927, c. 88, s. 128.

Principal, interest, and costs brought into court pending action upon bond.

**127.** If, at any time pending an action upon any bond with a penalty, the defendant brings into court all the principal money and interest due on such bond, and also all such costs as have been expended in any suit upon such bond, the money so brought in shall be deemed and taken to be in full satisfaction and discharge of the bond, and the court may give judgment to discharge every such defendant of and from the same accordingly. R.S.O. 1927, c. 88, s. 129.

## ACCOUNT BY JOINT-TENANTS.

**128.** Actions of account shall and may be brought and maintained against the executors and administrators of a guardian, bailiff and receiver, and also by one joint-tenant and tenant in common, his executors and administrators, against the other as bailiff for receiving more than comes to his just share or proportion, and against the executor and administrator of such joint-tenant or tenant in common. R.S.O. 1927, c. 88, s. 130.

Proviso for actions of account by and between joint tenants as bailiffs, etc.

## PERPETUATING TESTIMONY.

**129.** Any person who would, under the circumstances alleged by him to exist, become entitled, upon the happening of any future event, to any office or to any estate or interest in any property, real or personal, the right or claim to which cannot by him be brought to trial before the happening of such event, shall be entitled to maintain an action in the Supreme Court to perpetuate any testimony which may be material for establishing such claim or right, and all laws, rules and regulations, not contrary to the provisions of this section, in force or in use in suits to perpetuate testimony, or respecting depositions taken in such actions in making such depositions, shall be in force and used and applied in all suits instituted under the authority of this section and in respect to depositions taken in such action. R.S.O. 1927, c. 88, s. 131.

Actions to perpetuate testimony may be brought by persons claiming offices, titles, etc., contingent on future events.

**130.** In all actions which may be so instituted under the authority of section 129, touching any office, or any other matter or thing in which His Majesty may have any estate or interest, it shall be lawful to make the Attorney-General a party defendant thereto, and in all proceedings in which the depositions taken in any such action in which the Attorney-General was so made a defendant may be offered in evidence, such depositions may be admissible notwithstanding any objection to such depositions upon the ground that His Majesty was not a party to the action in which such depositions were taken. R.S.O. 1927, c. 88, s. 132.

Attorney-General to be party defendant in all such actions in which the King may have any estate or interest.

## SPECIAL CASE—INDEMNITY TO PERSONS ACTING UNDER JUDGMENT ON.

**131.** Any order or judgment of the court made in an action or upon an originating motion, special case or in any other way permitted by the rules or any statutes shall effectually protect and indemnify any person acting thereon in good faith. R.S.O. 1927, c. 88, s. 133.

Protection of persons acting on order or judgment.

## CONTEMPT,

Court may  
appoint  
person to  
execute  
instrument  
for person  
in contempt.

**132.**—(1) When any person has been directed by any judgment or order to execute any deed or other instrument, or make a surrender or transfer, and has refused or neglected to execute such deed, or instrument, or make, such surrender or transfer, and has been committed to prison under process for such contempt, or, being confined in prison for any other cause, has been charged with or detained under process for such contempt, and remains in such prison, the court may, grant a vesting order or may order or appoint an officer of the court to execute such deed or other instrument, or to make such surrender or transfer for and in the name of such person.

Effect of  
instrument.

(2) The execution of such deed or other instrument, and the surrender or transfer in his name made by such officer, shall in all respects have the same force and validity as if the same had been executed or made by the party himself.

Discharge  
of person in  
contempt.

(3) Thereupon the party in contempt shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to an order that he be discharged from custody, and the court shall make such order as shall be deemed just touching the payment of the costs of or concerning any such deed, surrender, instrument or transfer. R.S.O. 1927, c. 88, s. 134.

Power of  
sequestrator  
in cases of  
contempt.

**133.**—(1) Where a person is committed for a contempt in not delivering to any person, or depositing in court or elsewhere, as by any order may be directed, books, papers, or any other articles or things, any sequestrator appointed under any commission of sequestration shall have the same power to seize and take such books, papers, writings or other articles or things, being in the custody or power of the person against whom the sequestration issues, as he would have over his own property, and thereupon such articles or things so seized and taken shall be dealt with by the court as shall be deemed just.

Power of  
Court to  
discharge.

(2) After such seizure the court may, upon the application of the prisoner or of any other person in the cause or matter, or upon any report, make such order for the discharge of the prisoner upon such terms as to costs and otherwise as the court may deem proper. R.S.O. 1927, c. 88, s. 135.

Court may  
compulsorily  
discharge  
prisoners  
confined for  
contempt.

**134.** Where any person committed for a contempt is entitled to his discharge upon applying to the court, but omits to make such application, the court may, compulsorily discharge such person from custody, and direct payment of the



costs of the contempt out of any funds belonging to him over which the court may have power, or may order payment of such costs by such person. R.S.O. 1927, c. 88, s. 136.

#### CHARGING ORDERS ON STOCKS, ETC.

**135.** If a person against whom a judgment has been entered up in any of His Majesty's Courts in Ontario, has any Government stock, funds or annuities, or any stock or shares of or in a public company in Ontario, whether incorporated or not, standing in his name in his own right, or in the name of any person in trust for him, a judge of the Supreme Court, on the application of any judgment creditor, may order that such stock, funds, annuities, or shares or such of them or such part thereof respectively as he shall think fit shall stand charged with the payment of the amount for which judgment had been so recovered, and interest thereon, and such order shall entitle the judgment creditor to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment debtor; but no proceedings shall be taken to have the benefit of such charge until after the expiration of six months from the date of such order. R.S.O. 1927, c. 88, s. 137.

Stock and shares in public funds, and public companies, belonging to the debtor, and standing in his own name, to be charged by order of a Judge.

**136.**—(1) Every such order shall be made in the first instance *ex parte* and without any notice to the judgment debtor, and shall be an order to show cause only, and such order, if any government stock, funds or annuities standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected, shall restrain any transfer thereof being made in the meantime and until such order has been made absolute or discharged; and if any stock or shares of or in any public company standing in the name of the judgment debtor in his own right or in the name of any person in trust for him are to be affected by any such order shall in like manner restrain such public company from permitting a transfer thereof.

Order of judge to be made in the first instance *ex parte*, and on notice to the bank or company to operate as an estoppel.

(2) If, after notice of such order to the person to be restrained thereby, or, in case of corporations, to any authorized agent of such corporation, and before the same order is discharged or made absolute, such corporation or person permits any such transfer to be made, the corporation or person so permitting such transfer shall be liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as may be sufficient to satisfy his judgment; and no disposition of the judgment debtor in the meantime shall be valid or effectual as against the judgment creditor.

Liability of persons dis-regarding order.

When order  
absolute.

(3) Unless the judgment debtor, within a time to be mentioned in such order, shows to a judge sufficient cause to the contrary the order shall after proof of notice thereof to the judgment debtor, his solicitor or agent be made absolute.

Varying or  
discharging  
orders.

(4) Any such judge, upon the application of the judgment debtor or any person interested, may discharge or vary such order. R.S.O. 1927, c. 88, s. 138.

Provisions  
as to  
property of  
judgment  
debtors  
defined and  
extended.

**137.**—(1) Sections 135 and 136 shall extend to the interest of a judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent as well in any such stocks, funds, annuities or shares, as also in the dividends, interest or annual produce of any such stocks, funds, annuities or shares.

Order affect-  
ing funds  
in Court.

(2) Where any such judgment debtor has any estate, right, title or interest, vested or contingent, in possession, remainder, or reversion in or to stocks, funds, annuities or shares standing in the name of the Accountant of the Supreme Court or in or to the dividends, interest or annual produce thereof, such judge may make any order as to such stock, funds, annuities or shares, or the interest, dividends or annual produce thereof, in the same way as if the same had been standing in the name of a trustee of such judgment debtor.

Effect of  
such order.

(3) No order of any judge as to any stock, funds, annuities or shares standing in the name of the Accountant, or as to the interest, dividends, or annual produce thereof, shall prevent any incorporated bank or any public company from permitting any transfer of such stocks, funds, annuities or shares, or payment of the interest, dividends or annual produce thereof, in such manner as the Supreme Court may direct, or shall have any greater effect than if such debtor had charged such stock, funds, annuities or shares, or the interest, dividends, or annual produce thereof, in favour of the judgment creditor with the amount of the sum mentioned in any such order. R.S.O. 1927, c. 88, s. 139.

#### PENAL ACTIONS.

In penal  
action if  
prior judg-  
ment set up,  
plaintiff may  
reply fraud.

**138.**—(1) In any penal action brought in good faith in which the defendant sets up a prior judgment the plaintiff may reply in avoidance of such judgment that such prior judgment was had by covin or collusion, and no release by any person before or after action for a penalty shall be a ground for staying such action.

Exception.

(2) No plaintiff in any such action shall be permitted to

set up by way of reply, or otherwise, any such charge of covin or collusion, where the merits of the matter in question in the action, or a like charge of covin or collusion have been once tried and found either for or against the plaintiff. R.S.O. 1927, c. 88, s. 140.

**139.** No person shall sue as a common informer in a penal action unless he is *sui juris*. R.S.O. 1927, c. 88, s. 141. Informer must be *sui juris*.

**140.** No penal action brought by a common informer shall be compounded without the leave of the court. R.S.O. 1927, c. 88, s. 142. Compounding penal action.

#### QUO WARRANTO PROCEEDINGS.

**141.**—(1) Except in the cases mentioned in sections 144 and 145 all proceedings against any person who unlawfully claims or usurps, or is alleged unlawfully to claim or to usurp any office, franchise or liberty, or who has forfeited or is alleged to have forfeited any franchise, by reason of non-user or mis-user thereof, which have heretofore been instituted or taken by writ of *quo warranto*, or by information in the nature of a writ of *quo warranto*, hereafter shall be instituted and taken, where the proceeding is by the Attorney-General *ex officio*, by notice of motion calling on the person against whom the proceeding is taken to show cause why he unlawfully exercises or usurps such office, franchise or liberty. *Quo warranto* writ of, superseded, in certain cases,—proceedings in lieu of. Motion, or order *nisi*.

(2) Where the proceeding is at the instance of a relator it shall be taken in the name of His Majesty on the relation of such person, and such person shall before serving the notice of motion give security for the due and effectual prosecution thereof in like manner as nearly as may be and in the like amount as is, according to the practice of the Supreme Court, required to be given on an application to quash a conviction or order made by a justice of the peace, or in such manner and amount as the court may direct. R.S.O. 1927, c. 88, s. 143. Where relator named, proceedings how framed. Relator to give security.

**142.** The court may direct an issue for the trial of the matters in question on any such application, and may grant an injunction or a mandatory order in aid of the proceedings, or for the purpose of enforcing the judgment or order which shall be pronounced thereon. R.S.O. 1927, c. 88, s. 144. Issue may be directed, or injunction, etc., granted.

**143.** The practice and procedure, including the right of appeal, shall be, in all other respects, in accordance with the Practice, and appeals.

ordinary practice and procedure of the Supreme Court. R.S.O. 1927, c. 88, s. 145.

Municipal  
and school  
officers.

**144.** Where it is intended to call in question the right of any person claiming to be a municipal officer, or an officer of a school corporation, to the office which he claims to hold, exercise or occupy as such officer, or the right of a member of any school board or school corporation to have, hold or enjoy any office, either as a member of such board or corporation or otherwise under the school laws of Ontario, and the provisions of section 145 do not apply to the trial and determination of such question, the matter shall be tried and determined by the judge of the county court of the county in which the duties of the office are to be performed, in a summary manner, and the proceedings shall be the same, as nearly as may be, as those provided for trying and determining a complaint respecting the validity or mode of conducting the elections of school trustees in an urban municipality, excepting that such judge shall have the same power to award costs to either party to the proceedings as he would have if the same were a proceeding in the county court. R.S.O. 1927, c. 88, s. 146.

Where other  
special statu-  
tory provi-  
sion, this Act  
not to apply.

**145.** Nothing in section 144 shall apply to or affect the proceedings in cases for which special provision is made by the municipal or school laws of Ontario, but in all such cases the proceedings shall be instituted and taken in the manner provided by those Acts, and not otherwise. R.S.O. 1927, c. 88, s. 147.

#### CERTAIN PRACTICE AND PROCEDURE NOT AFFECTED.

Act not to  
apply to  
criminal  
matters or  
Dominion  
controverted  
elections.

**146.** Nothing in this Act shall affect the practice or procedure in criminal matters, or matters connected with Dominion controverted elections. R.S.O. 1927, c. 88, s. 148.

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## CHAPTER 101.

## The Extra Judicial Services Act.

1. Every judge of the Supreme Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$1,000, payable quarterly, as compensation for the services which he is called on to render by any Act of this Legislature in addition to his ordinary duties. R.S.O. 1927, c. 89, s. 1.

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## CHAPTER 102.

## The County Judges Act.

## JUDGES AND JUNIOR JUDGES.

Tenure of  
office.

**1.** The judges of the several county and district courts now holding office, as well as the judges hereafter to be appointed, shall hold their offices during good behaviour, but shall be subject to be removed by the Lieutenant-Governor for inability, incapacity or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council. R.S.O. 1927, c. 90, s. 1.

Removal.  
R.S.C.,  
c. 105,  
ss. 30, 31.

Qualifica-  
tion.

**2.** The person to be appointed to be the judge or junior judge of a county or district court shall be a barrister of at least seven years' standing at the Bar of Ontario. R.S.O. 1927, c. 90, s. 2.

Style.

**3.** Unless otherwise expressed in the commission, where more than one judge of a county or district court is appointed for a county or district, the judge whose commission has priority of date shall be styled "The Judge of the County *or* District Court of                   " (as the case may be), and the other judge of the same court shall be styled "The Junior Judge of the County *or* District Court of                   " (as the case may be). R.S.O. 1927, c. 90, s. 3.

Junior  
judges in  
Wentworth,  
Carleton,  
Middlesex,  
Essex and  
Thunder  
Bay.

**4.** A junior judge may be appointed for each of the Counties of Wentworth, Carleton and Middlesex and the District of Thunder Bay, and two junior judges may be appointed for the County of Essex. 1931, c. 27, s. 2; 1933, c. 59, s. 7.

County of  
York.

**5.** Junior judges not exceeding eight in number may be appointed for the County of York. 1931, c. 27, s. 2; 1936, c. 13, s. 2.

Powers of  
junior  
judges.

**6.** Where any power or authority is, by this Act or otherwise, conferred upon or may be exercised by the judge of a county or district court, whether with reference to the holding of any of the courts of the county or district which he may hold, or to the business of any of such courts, or to any other matter or thing over which he has jurisdiction, the like power and authority shall be possessed and may be exercised

by a junior judge, subject to the general regulation and supervision of the judge. R.S.O. 1927, c. 90, s. 6.

7. Every judge and junior judge of a county or district court shall reside within the county or district for which he is appointed, unless otherwise provided by Order-in-Council. R.S.O. 1927, c. 90, s. 7. Residence in county.

8. A judge or junior judge shall not, directly or indirectly, practise as counsel or solicitor or act as a notary public or conveyancer under the penalty of forfeiture of office and the further penalty of \$400. R.S.O. 1927, c. 90, s. 8. Not to practise. Penalty.

9.—(1) Subject to the provisions of subsection 2 there shall be paid to the judge of every county and district court and to every junior judge of a county or district court an annual allowance of \$1,000 payable monthly, and the said allowance shall be payable out of and chargeable upon the Consolidated Revenue Fund. 1930, c. 25, s. 2, *part*. Payment of allowances to county judges.

(2) There shall be paid to the senior judge of the county court of the county of York an annual allowance of \$2,600 and to each of the junior judges of the said court an annual allowance of \$1,600, and the said allowances shall be payable monthly out of the Consolidated Revenue Fund and shall be in lieu of and not in addition to any payments authorized by subsection 1. 1930, c. 25, s. 2, *part*; 1937, c. 15, s. 2. Allowances to county judges in County of York.

(3) The said annual sums shall be in lieu of all fees and allowances payable to the judge of a county or district court for any services performed by him under any Act of this Legislature, including fees as judge of the surrogate court and as local master of the Supreme Court, and where such fees are payable by the parties to any proceedings before the judge, or upon any order or certificate made or given by him, they shall hereafter be payable in law stamps and shall form part of the Consolidated Revenue Fund, and except as herein-after provided, the judge of a county or district court shall not be entitled to receive any fees whatever under any Act of this Legislature. R.S.O. 1927, c. 90, s. 9 (3). Judges not to receive fees.

(4) Nothing in the foregoing subsections shall apply to or affect the payment of any allowance or fees to the judge of a county or district court with respect to any office which may be lawfully held by him in addition to his office as judge, to which any annual allowance or salary may be attached, or in the performance of his duties as an arbitrator or referee under *The Municipal Act*, *The Public Works Act*, *The Railway Act (Ontario)*, *The Arbitration Act*, *The Municipal Arbitrations* Exceptions as to arbitrators, etc.

Rev. Stat.,  
cc. 266, 54,  
259, 109,  
280.

*Act*, or any other statute designating him by his name of office as an arbitrator or referee. R.S.O. 1927, c. 90, s. 9 (4); 1935, c. 14, s. 2 (1, 2).

Travelling  
expenses not  
affected.

(5) Nothing in this section contained shall affect or prevent the payment to the judge of a county or district court of his travelling or other expenses when called upon to perform any duty outside the county or district town of the county or district. R.S.O. 1927, c. 90, s. 9 (6).

#### DEPUTY JUDGES.

Appointment  
of deputy  
judge.

**10.**—(1) A barrister of at least three years' standing at the Bar of Ontario may be appointed to be deputy judge for any county or district.

*Idem.*

(2) The appointment may be made notwithstanding that the office of judge is vacant by death, or resignation, or that the judge is ill or absent at the time of the appointment. R.S.O. 1927, c. 90, s. 10.

Tenure of  
office and  
powers.

**11.** A deputy judge shall hold office during pleasure, and in case of the death, illness or absence of the judge, shall have authority to perform in the place of the judge, in the county or district for which he is appointed, all the duties of and incident to the office of the judge, and all acts required or allowed to be done by the judge under this or any other Act, unless therein otherwise expressly provided. R.S.O. 1927, c. 90, s. 11.

Right to  
practise.

**12.** Nothing herein contained shall prevent a deputy judge from practising the profession of the law. R.S.O. 1927, c. 90, s. 12.

#### OATH OF OFFICE.

Oath of  
office.

**13.** Every judge, junior judge and deputy judge, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

"I, \_\_\_\_\_, do swear that I will (*in the case of a Deputy Judge add the words as occasion may require*), truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of Judge of the County or District Court of the County or District of \_\_\_\_\_, (*as the case may be*): So help me God."

R.S.O. 1927, c. 90, s. 13.



## DUTIES AND POWERS OF JUDGES.

**14.**—(1) At any sittings of the county or district court held at the same time as the sittings of the court of general sessions of the peace, or of a division court in any county or district, or of any two of the courts at the same time, either the judge or the junior judge, or both of them, may, if the judge thinks fit, preside in any of such courts, or each of them in one of such courts at the same time, so that two of the courts may sit and the business therein be proceeded with simultaneously. Power to preside together or separately.

(2) The county court of the County of York, the court of general sessions of the peace, and the division courts of the said county, or any of such courts, may sit at the same time, and the business thereof may be proceeded with simultaneously. R.S.O. 1927, c. 90, s. 14. Local courts in York.

**15.**—(1) It shall be competent for any judge of a county or district court to hold any of the courts in any county or district or to perform any other duty as a judge of a county or district court in any such county or district upon being required so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor. Powers of judge to act outside his county.

(2) The judge of any county or district court may, without any such order, perform any judicial duty in any county or district on being requested so to do by the judge of the county or district court to whom the duty for any reason belongs. At request of any other judge. R.S.C., c. 105, s. 34 (2).

(3) Any retired judge of a county or district court may hold any court or perform any other duty of a judge of a county or district court in any county or district on being authorized so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor. When retired county judges may act for county judges. Idem, s. 35, part.

(4) The judge so required, requested or authorized as aforesaid shall, while acting, be deemed to be a judge of the county or district court of the county or district in which he is so required or requested to act, and shall have all the powers of such judge. Power of a judge so acting. Idem, s. 34 (3); s. 35 part.

(5) In this section "judge" shall include a junior judge. R.S.O. 1927, c. 90, s. 15. Junior judges.

**16.** The Lieutenant-Governor in Council may empower a judge, or junior judge of a county or district court to transact, at such place out of his county or district, to be named Authorization by Lieutenant-Governor in Council.

in the Order-in-Council, as may be deemed proper, all such business depending in his court as may be transacted in chambers where the solicitors for all parties reside in the place so named, or with the consent of the solicitors for all parties. R.S.O. 1927, c. 90, s. 16.

## SHORTHAND WRITERS.

Shorthand  
writers—  
appointment  
of.

**17.**—(1) A shorthand writer may be appointed by the Lieutenant-Governor in Council for the local courts of each county and provisional judicial district.

To be under  
direction of  
judge.

Remunera-  
tion.

(2) The shorthand writer so appointed shall be subject to the direction of the judge or, in his absence, of the junior judge or judges, and shall be entitled to such remuneration by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may direct.

When paid  
by salary  
only.

(3) If such shorthand writer is paid by salary only the fees payable in respect of his duties shall be applied in reduction of his salary, and the balance, if any, shall be paid by the county quarterly on the 1st days of January, April, July and October of every year.

Regulation  
of fees and  
duties.

(4) The fees and all matters relating to the duties of the shorthand writer shall be determined and regulated by the judge of the county or district court, subject to the approval of the Lieutenant-Governor in Council.

City and  
separated  
town to  
contribute.

Rev. Stat.,  
c. 266.

(5) Every city and separated town shall pay the county a proper proportion of the remuneration which, in case of disagreement, shall be determined by arbitration according to the provisions of *The Municipal Act*, and subject thereto, and unless and until the same is otherwise determined, the city or town shall pay to the county one-half of such remuneration. R.S.O. 1927, c. 90, s. 18.

## INTERPRETERS.

Appointment  
of official  
interpreters.

**18.** If the council of any county, by resolution, requests the appointment of an official interpreter to act at the courts held in that county an appointment may be made in the same manner, and subject to the same terms and conditions, as provided with respect to shorthand writers by section 17 which shall apply as nearly as may be to official interpreters. R.S.O. 1927, c. 90, s. 19.

## COUNTY COURT DISTRICTS.

County  
court  
districts.

**19.**—(1) The Lieutenant-Governor in Council may order that a county or two or more counties shall form a county

court district for the purposes of this Act, and the district so formed shall be erected and established as from a day to be named by the Lieutenant-Governor by his proclamation in the *Ontario Gazette*.

(2) Any district so formed may from time to time be dissolved, re-established, altered or rearranged by the Lieutenant-Governor in Council, and the dissolution, re-establishment, alteration or rearrangement shall take effect from a day to be named by proclamation in the *Ontario Gazette*. R.S.O. 1927, c. 90, s. 20.

**20.** After the erection of a county court district, the several county courts, courts of general sessions, division courts, courts for the hearing of appeals and complaints under *The Assessment Act* or *The Voters' Lists Act*, and all other courts which a county judge may hold in each county shall be held by the judges, including the junior judges in the district, in rotation so far as may be practicable in view of the respective general length of service and strength of the other judges, and the special duties assigned to junior judges as well as in view of other offices, if any, held by any of the judges, and all other circumstances. R.S.O. 1927, c. 90, s. 23.

**21.**—(1) The judges in each county court district shall meet together at least once in every year, and the judges present or a majority of them, shall arrange and appoint which of the said courts in the district shall be held by each of the judges of the district throughout the ensuing year, and what other judicial work each shall discharge in the respective counties of the district throughout the year. R.S.O. 1927, c. 90, s. 24.

(2) The judge in a county court district who, in point of time, is senior in appointment to office shall convene the meetings referred to in this section and unless all the judges present at any such meeting unanimously agree upon a different mode of dividing the work, the same shall be divided, strictly in conformity with section 20 and no judge except by reason of illness or other unavoidable cause, shall be excused from performing the judicial work assigned to him at any such meeting. 1935, c. 14, s. 4; 1936, c. 13, s. 3.

**22.** Every judge to whom any duty is assigned at such meeting shall perform the duty so assigned to him, and if he is, by reason of illness or other cause, unable to perform the same, he shall so far as possible, arrange to have the duty

performed by another person competent by law in that behalf. R.S.O. 1927, c. 90, s. 25.

Absence or illness of judge.

**23.** Where by reason of the absence or illness of a judge, or from any other cause, it is impossible for the arrangements made at such meeting to be carried out with respect to any duty belonging to a county court judge, the judges of the district shall see that the deficiency is supplied by some other person competent by law in that behalf, and shall forthwith communicate what they do therein to the Provincial Secretary. R.S.O. 1927, c. 90, s. 26.

Judge to have jurisdiction throughout districts.

**24.** The judge of any county forming part of a district may exercise and perform in any part of the district any power or duty assigned to the judge of a county court by any statute of Ontario or any judicial act affecting the courts or business of the county of which his commission designates him as judge, and being within the legislative authority of Ontario. R.S.O. 1927, c. 90, s. 27.

Where vacancy occurs and business does not warrant appointment.

**25.** Where a vacancy occurs in the office of the judge of the county court in any county included in a county court district, and the Lieutenant-Governor declares that, owing to the lack of sufficient business, it is unnecessary that the vacancy should be filled, the remaining judges in the district shall arrange for the performance of the duties of the judge of the county court of the county in which the vacancy occurs by one of themselves or by some other person competent by law in that behalf, and every judge or other person so acting shall have the like powers, and shall perform the like duties as a judge or other person competent by law in that behalf appointed or authorized for that purpose may exercise and perform under any statute of Ontario in the county in which the vacancy has occurred. R.S.O. 1927, c. 90, s. 28.

Appointment of stenographers by city council for judges' clerical work.

**26.** Where in any district erected under this Act there is a city having a population of 100,000 or more and it appears to the council of such city that one or more stenographers is needed to do clerical work other than court reporting for the judges, or any of them, the said council may appoint one or more qualified persons for such purpose, whose salary shall be fixed and paid in monthly instalments, by the said council, provided, however, that such council may arrange with the governing body or bodies of the county or counties comprised in the district, or any of them, for the partial payment or reimbursement of such salary on such terms as may be agreed upon. R.S.O. 1927, c. 90, s. 29.



## CHAPTER 103.

## The County Courts Act.

1. There shall be in and for every county and district a court of record, to be styled in counties, the "County Court of the County (or United Counties) of (*naming the County or United Counties*)," and in districts the "District Court of the District of (*naming the district*)."  
R.S.O. 1927, c. 91, s. 1.

## JUDGES.

2. Subject to the provisions of *The County Judges Act*, the court shall be presided over by the judge or junior judge or by the acting or the deputy judge.  
R.S.O. 1927, c. 91, s. 2.

3. In case of the illness or absence of such judges the court may be presided over by a judge of any other county or district court, upon the request in writing of the judge or of the Attorney-General for Ontario.  
R.S.O. 1927, c. 91, s. 3.

## CLERKS.

4. There shall be a clerk of every such court, who shall be appointed by the Lieutenant-Governor in Council, and shall hold office during pleasure.  
R.S.O. 1927, c. 91, s. 4.

5. The clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant-Governor in Council may direct.  
R.S.O. 1927, c. 91, s. 5.

6.—(1) The clerk shall keep his office in the court house or, if there is no room available therein, at such place in the county or district town as the judge may direct.

(2) The clerk of the county court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the county council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council.  
R.S.O. 1927, c. 91, s. 6.

Office hours.

7. Except on holidays, and subject to rules of court, the office of the clerk shall be kept open from ten o'clock in the forenoon until four o'clock in the afternoon, except on Saturday, when the office shall be kept open until one o'clock in the afternoon. R.S.O. 1927, c. 91, s. 7.

Taxation.

8. The clerk shall tax costs, subject to an appeal to the judge. R.S.O. 1927, c. 91, s. 8.

Clerk not to draw or advise on documents.

9. The clerk shall not, for fee or reward, draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office, and for which a fee is not expressly allowed by the tariff. R.S.O. 1927, c. 91, s. 9.

Performance of duties during vacancy.

10. In the event of the death, resignation or removal from office of the clerk, the clerk of the peace shall, *ex officio*, be the clerk until another person is appointed and assumes the duties of the office, and every clerk of the peace while clerk of the court, shall, except in the County of York, be also *ex officio* deputy clerk of the Crown and registrar of the surrogate court, if the clerk held that office, and in case the clerk was local registrar, the clerk of the peace, while he holds the office of clerk of the court, shall be *ex officio* local registrar. R.S.O. 1927, c. 91, s. 10.

## SPECIAL EXAMINERS.

Powers of special examiners.

11.—(1) The special examiners of the Supreme Court shall be officers of the county and district courts, and shall possess the like powers in county and district court cases as those possessed by them in cases in the Supreme Court.

(2) The clerk of any county court may act as special examiner in any action in any county court. R.S.O. 1927, c. 91, s. 11.

## SITTINGS.

Trial sittings of county courts. Rev. Stat., c. 102.

12.—(1) Except in the Counties of Carleton, Middlesex, Wentworth and York, and subject to the provisions of *The County Judges Act*, sittings of the county courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held semi-annually, to commence on the first Tuesday in June and December. R.S.O. 1927, c. 91, s. 12 (1); 1937, c. 14, s. 2 (1).

Postponement of sittings.

(2) The judges of the county court district may postpone the date of such sittings provided such postponement does not, in the opinion of the judges, conflict or interfere with the sittings of the Supreme Court in such county court district.

(3) Where any such sittings is so postponed, notice of such postponement and of the date upon which such sittings shall commence shall be posted in the office of the county court clerk in every county in the county court district not later than sixty days prior to the commencement of such postponed sittings. 1937, c. 14, s. 2 (2).

Notice of  
postpone  
ment.

(4) In the Counties of Carleton and Middlesex, two such sittings shall be held in each year, to commence on the first Tuesday in June and December. R.S.O. 1927, c. 91, s. 12 (2).

In Counties  
of Carleton  
and Middle-  
sex.

(5) In the County of York four such sittings shall be held in each year to commence on the first Tuesday in December, March and May and the second Tuesday in September.

Trial  
sittings,  
County of  
York.

(6) In the County of Wentworth four such sittings shall be held in each year to commence on the first Tuesday in December and March and on the second Tuesday in May and September. 1935, c. 13, s. 2 (1).

County of  
Wentworth.

(7) Except in the County of York and in the County of Wentworth, there shall be sittings of every county court on the first Tuesday in April and October in each year for the trial of issues of fact and assessments of damages without a jury. R.S.O. 1927, c. 91, s. 12 (4).

County  
court  
sittings  
without a  
jury.

**13.**—(1) Sittings of the district courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held at,

Sittings of  
district  
courts.

(a) Bracebridge, on the fourth Tuesday of May and November; R.S.O. 1927, c. 91, s. 13 (1); *part*.

(b) Cochrane, on the second Tuesday of June and the fourth Tuesday of November; 1928, c. 21, s. 5.

(c) Fort Frances, on the first Tuesday of April and October;

(d) Gore Bay, on the last Tuesday of May and the third Tuesday of October;

(e) Kenora, on the first Tuesday of June and the second Tuesday of November;

(f) North Bay, on the second Tuesday of June and the fourth Tuesday of November;

(g) Parry Sound, on the first Tuesday of June and December;

- (h) Port Arthur, on the first Tuesday of May and the second Tuesday of November;
- (i) Sault Ste. Marie, on the last Tuesday of May and the first Tuesday of November;
- (j) Sudbury, on the first Tuesday of June and on the fourth Tuesday of November; and at
- (k) Haileybury, on the first Tuesday of June and December. R.S.O. 1927, c. 91, s. 13 (1), *part*.

Change of  
time and  
place of  
sittings.

(2) The Lieutenant-Governor in Council may, where it is deemed necessary or expedient, direct that the sittings provided for in subsection 1 shall be held at some other time and in some other place than the time and place specified in the said subsection 1. R.S.O. 1927, c. 91, s. 13 (2).

Hour of  
sittings.

**14.** The sittings of the county courts, provided for by subsections 1 and 4 of section 12, and the sittings of the district courts, provided for by section 13, shall not open earlier than one o'clock in the afternoon of the first day of the sittings. R.S.O. 1927, c. 91, s. 14.

Clerk's fees  
for  
attendance.

**15.** The clerk shall be entitled to be paid by the county the sum of \$4 for each day's attendance at all sittings of the county court, both non-jury and jury. R.S.O. 1927, c. 91, s. 15.

Power to  
hold  
additional  
sittings.

**16.** Besides the regular sittings, additional sittings for trials without a jury may be held at such time as the judge may direct or appoint, and such sittings shall be held as often as may be requisite for the due despatch of business. R.S.O. 1927, c. 91, s. 16.

Concurrent  
sittings for  
trial of jury  
and non-jury  
cases.

**17.** The judges of any county or district court may sit separately and concurrently for the despatch of the business of a sittings. R.S.O. 1927, c. 91, s. 17.

Adjourn-  
ment where  
judge unable  
to attend.

**18.—(1)** Where the judge who is to hold the sittings is unable to hold the same at the time appointed the sheriff, or in his absence the deputy sheriff, shall adjourn the court by proclamation to an hour on the following day to be named by him, and so from day to day until the judge is able to hold the court, or until he receives other directions from the judge or from the Attorney-General.

Notification  
of Attorney-  
General.

(2) The sheriff shall forthwith notify the Attorney-General of the adjournment. R.S.O. 1927, c. 91, s. 18.



**19.**—(1) The county and district courts shall have jurisdiction in,—

- (a) actions arising out of contract, expressed or implied, <sup>Contract.</sup> where the sum claimed does not exceed \$800;
- (b) personal actions, except actions for criminal conversation and actions for libel, where the sum claimed does not exceed \$500;
- (c) actions for trespass or injury to land where the sum <sup>Injury to land.</sup> claimed does not exceed \$500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$500, and the sum claimed does not exceed that amount;
- (d) actions for the obstruction of or interference with <sup>Easements.</sup> a right of way or other easement where the sum claimed does not exceed \$500, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount;
- (e) actions for the recovery of property, real or personal, including actions of replevin and actions of detinue where the value of the property does not exceed \$500; <sup>Recovery of property.</sup>
- (f) actions for the enforcement by foreclosure or sale or <sup>Mortgages.</sup> for the redemption of mortgages, charges or liens, with or without a claim for delivery of possession or payment or both, where the sum claimed to be due does not exceed \$500.
- (g) partnership actions where the joint stock or capital <sup>Partnership.</sup> of the partnership does not exceed in amount or value \$2,000;
- (h) actions by legatees under a will for the recovery or <sup>Legacies.</sup> delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$500, and the estate of the testator does not exceed in value \$2,000;
- (i) all other actions for equitable relief where the subject matter involved does not exceed in value or <sup>Equitable relief.</sup> amount \$500; and

Insolvency.

- (j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$500.

(NOTE.—Section 3 of *The County Courts Amendment Act, 1937, Chapter 14, is to come into force on a day to be named by the Lieutenant-Governor by his Proclamation. At the date of the publication of the Revised Statutes, the section had not been proclaimed.*)

Dispute of jurisdiction by defendant.

- (2) Where a defendant intends to dispute the jurisdiction of the court on the ground that the action, though otherwise within the proper competence of the court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved or, in the cases mentioned in clauses *g* and *h* of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$2,000, or the estate of the testator exceeds in value \$2,000, he shall in his appearance or in his statement of defence state that he disputes the jurisdiction of the court and the ground upon which he relies for disputing it, and, in default of his so doing, unless otherwise ordered by the court or a judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question, and in any such action tried or disposed of in a county or district court such court shall have the right to award all costs of or incidental to such action on the scale of the Supreme Court in the same manner as if such action had been tried or disposed of in the Supreme Court.

Awarding costs on Supreme Court scale.

Transmission of papers at instance of plaintiff.

- (3) Where the notice mentioned in subsection 2 is given, the plaintiff may on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the Supreme Court in the county or district in which the action was brought, and it shall be the duty of the clerk of the county or district court forthwith to transmit the same to such office.

Transfer of action.

- (4) When the papers and proceedings so transmitted are received at the proper office of the Supreme Court, the action shall *ipso facto* be transferred to the Supreme Court.

Transfer of papers at instance of defendant.

- (5) Where the plaintiff does not exercise the right conferred by subsection 3 the defendant may, after the expiration of ten days from the entry of appearance if he has given notice that he disputes the jurisdiction of the court on entering his appearance, or after the expiration of ten days from the filing of his statement of defence if he has given such notice in his statement of defence, apply to a judge of the

Supreme Court for an order transferring the action to that court.

(6) Where the court or a judge makes an order under the provisions of subsection 2 allowing the defendant to question the jurisdiction of the court, the court or judge may direct the action to be transferred to the Supreme Court, on such terms as to costs and otherwise, as may be deemed just.

Terms of order of transfer.

(7) Where an action is transferred to the Supreme Court under the provisions of this section, if the plaintiff is awarded costs, unless otherwise ordered by the court or a judge, they shall after the date of the transfer be taxed according to the scale of the Supreme Court, whether or not the action be in fact within the proper competence of the county or district court. R.S.O. 1927, c. 91, s. 19.

Scale of costs in action transferred.

**20.**—(1) Where the defendant pleads a set-off or counterclaim either party, within six days after the plaintiff has delivered his reply to such defence of set-off, or his defence to the counterclaim, may apply to a judge of the Supreme Court for an order transferring the action and counterclaim to the Supreme Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the court.

Where set-off or counterclaim is beyond jurisdiction.

(2) The judge, if satisfied that the set-off or counterclaim involves matter which exceeds the jurisdiction of the court, may order the transfer upon such terms as to costs and otherwise as he may deem just.

Judge's order transferring.

(3) If no such application is made within the time limited, or if an application so made has been refused, the jurisdiction of the court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. R.S.O. 1927, c. 91, s. 20.

Jurisdiction established where no order of transfer made.

**21.** Where an action has been transferred to the Supreme Court or to another county or district court, under any provision of this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the court into which it has been so transferred. R.S.O. 1927, c. 91, s. 21.

Consequences of transfer.

**22.** Where it appears in an action brought in a county or district court that such court has not cognizance thereof, but that the court of some other county or district has jurisdiction to try the same, the judge before whom the action is pending may, at any time before or during the trial thereof, order the action to be transferred to such other county or

Transfer of action to county or district court having jurisdiction.

district court upon such terms as to costs and otherwise as he may deem just. R.S.O. 1927, c. 91, s. 22.

Prohibition  
not to lie  
when case  
transferred.

**23.** Prohibition shall not lie in respect of an action or counterclaim which may be transferred under the provisions of this Act to the Supreme Court, or from one county or district court into another county or district court. R.S.O. 1927, c. 91, s. 23.

Abandon-  
ment of so  
much of  
claim as is  
in excess of  
jurisdiction.

**24.**—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the court he may, by writing signed by him and filed, upon such terms as the judge deems proper as to costs and otherwise, abandon the excess and in such case the plaintiff shall forfeit such excess, and shall not be entitled to recover it in any other action.

Idem.

(2) A defendant shall have the like right in respect of his set-off or counterclaim. R.S.O. 1927, c. 91, s. 24.

Relief which  
may be  
granted by  
courts.

**25.** The court shall, as regards all causes of action within its jurisdiction, have power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, but shall not have the power to remove a trustee or to appoint a new trustee under *The Trustee Act*, and shall give such and the like effect to every ground of defence or counterclaim, equitable or legal, by the same mode of procedure, and in as full and ample a manner as might and ought to be done in the like case by the Supreme Court. R.S.O. 1927, c. 91, s. 25.

Rev. Stat.,  
c. 165.

In what  
cases and on  
what condi-  
tions causes  
shall be  
removable.

**26.** Except in the cases mentioned in subsections 3, 5 and 6 of section 19 and in section 20, no action shall be removed by order of *certiorari*, or otherwise, into the Supreme Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a judge of the Supreme Court, if it appears to the judge fit to be tried in the Supreme Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he deems just. R.S.O. 1927, c. 91, s. 26.

Venue for  
certain  
actions.

**27.**—(1) Unless by consent of the parties, or unless the place of trial is changed, actions under clauses *c* and *d* of section 19 shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause *g* of that section shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause *h* of that section shall be brought and tried in the court of the



county or district where letters probate or of administration have issued, or where the deceased resided at the time of his death.

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the property sought to be recovered is situate. R.S.O. 1927, c. 91, s. 27. Actions for the recovery of real property.

**28.** An action by or against a judge shall not be brought in the court of which he is a judge, but shall be brought in the court of a county or district adjoining that in which such judge resides. R.S.O. 1927, c. 91, s. 28. Where action against judge of court may be brought.

**29.** Subject to the provisions of *The Judicature Act* and to rules of court, the practice and procedure of the Supreme Court shall apply to the county and district courts. R.S.O. 1927, c. 91, s. 29. Procedure. Rev. Stat., c. 100.

#### COSTS WHERE NO JURISDICTION.

**30.** Where the plaintiff fails to recover judgment by reason that the court has not jurisdiction, the court shall nevertheless have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid. R.S.O. 1927, c. 91, s. 30. Costs where action fails for want of jurisdiction.

#### ENFORCING JUDGMENTS AND ORDERS.

**31.** Every county and district court shall have the like power as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court; and the same shall have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1927, c. 91, s. 31. Power to enforce judgments and orders.

#### PUNISHMENT FOR CONTEMPT OF COURT.

**32.** Every county and district court may punish by fine or imprisonment, or by both, for any wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1927, c. 91, s. 32. Power to fine and imprison.

#### ACCOUNTS AND INQUIRIES.

**33.—(1)** Where it is proper to direct a reference, the same may be made to any officer to whom a reference may be directed by the Supreme Court or to the clerk of the court. References generally.

To judge.

(2) Where the judge of the court is local master, the reference may be made to himself, but no fees shall be charged by him on such reference.

Scale of costs.

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party, or solicitor and client, shall be according to the county court tariff. R.S.O. 1927, c. 91, s. 33.

Powers of court.

**34.**—(1) In an action in a county or district court the judge shall have the same powers with regard to the making of an order of reference as may be exercised by a judge of the Supreme Court in an action therein.

Appeal from referee.

(2) An appeal, in like manner and within the same time as in like cases in actions in the Supreme Court, shall lie from the report on the reference to the judge of the county or district court in chambers, who shall, upon such appeal, have the same power as may be exercised by a judge in like cases in the Supreme Court.

Appeal to Court of Appeal.

(3) An appeal shall lie from any order, judgment or decision of the judge of a county or district court, and from the report upon a reference made under subsection 2 of section 33 to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under the provisions of section 36.

Except where the Crown is a party.

(4) Nothing in this section shall empower the judge of a county or district court to refer any proceeding to which His Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of His Majesty. R.S.O. 1927, c. 91, s. 34.

#### PROCEEDINGS WHERE JUDGE DIES.

Rehearing where judge dies, or does not give judgment.

**35.**—(1) Where the judge before whom any action is tried, either with or without the intervention of a jury, dies before giving judgment, or having reserved his judgment, after having heard the evidence does not deliver judgment within six months thereafter, either party may thereupon set the said action down to be reheard by such judge of the Supreme Court or of a county court as may be designated by a judge of the Supreme Court sitting in weekly court.

Further evidence not to be received.

(2) No further evidence shall be received upon such rehearing unless by leave of the court.

(3) Notice of the intended rehearing shall be served on all parties to the action and a copy thereof with proof of service filed in the office of the county court clerk at least fourteen days before the setting down of the action for rehearing.

Notice.

(4) The action shall be so set down at least seven days before being reheard.

Time for action set down.

(5) The action shall be set down to be reheard at the first sittings of weekly court at Osgoode Hall, Toronto, after the expiration of twenty-one days from service of notice of intention to rehear.

Rehearing at weekly court.

(6) The party giving notice of rehearing shall at the time of filing notice of intended rehearing praecipe to the proper officer at Osgoode Hall, Toronto, the record, exhibits and all other papers used at the trial together with a copy of the evidence taken at the trial and it shall be the duty of the clerk of the county court upon receiving the praecipe and being paid the proper charges for postage and stenographers' fees to forward the said evidence and papers duly certifying thereto within ten days thereafter.

Transfer of papers.

(7) No further proceedings in the action shall thereafter be taken in the county court without the order of a judge of the Supreme Court after notice.

Further proceedings not to be taken without leave.

(8) Upon such rehearing, the evidence, exhibits and papers used at the trial shall be read and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment shall be entered by the county court clerk in accordance with his findings.

Judgment on rehearing.

(9) The costs of such rehearing shall be fixed by the judge presiding at such rehearing, who shall also direct by whom they shall be paid.

Costs of rehearing.

(10) An appeal shall lie from such judgment or finding in the same manner and on the same terms as if the said judgment had been pronounced at a trial in the county court. R.S.O. 1927, c. 91, s. 35.

Appeal.

#### APPEALS.

**36.**—(1) Any party to a cause or matter may appeal to the Court of Appeal from any judgment directed to be entered at or after the trial or from a refusal to enter a judgment.

Appeals to Court of Appeal.

(2) Where a party does not appear at the trial a motion for a new trial may be made before the judge but in all other cases a motion for a new trial shall be made before the Court of Appeal. R.S.O. 1927, c. 91, s. 36.

Motion for new trial.

Appeals from  
decision of  
judge.

**37.**—(1) An appeal shall also lie to the Court of Appeal at the instance of any party to a cause or matter from,—

(a) every decision or order of a judge in court or chambers under any of the powers conferred upon him by any rules of court or by any statute, unless provision is therein made to the contrary;

(b) every decision or order in any cause or matter disposing of any right or claim; and from

Appeal as to  
costs.

(c) any decision or order of a judge, whether pronounced or made at the trial, or on appeal from taxation or otherwise, which has the effect of depriving the plaintiff of county court costs on the ground that his action is of the proper competence of the division court, or of entitling him to county court costs on the ground that the action is not of the proper competence of the division court.

When  
section not  
applicable.

(2) This section shall not apply to an order or decision which is not final in its nature, but is merely interlocutory or where jurisdiction is given to the judge as *persona designata*. R.S.O. 1927, c. 91, s. 37.

Rev Stat.,  
c. 123.

(NOTE.—*As to appeals where judge is persona designata. See The Judges' Orders Enforcement Act.*)

Trans-  
mission of  
pleadings,  
etc.

**38.**—(1) The clerk shall, at the request of the appellant, transmit to the proper officer of the Supreme Court the pleadings in the cause and all motions or orders made, granted or refused therein together with the judgment or decision and all other papers in the cause affecting the question raised by the appeal.

Evidence,  
etc., to be  
certified.

(2) The evidence and all objections and exceptions thereto together with the judge's charge to the jury where the trial has been held with a jury, shall be certified under the hand of the stenographic reporter who was present at the trial. 1935, c. 13, s. 3.

Staying  
proceedings  
on appeal.

**39.** Subject to section 40, any judge of the county or district court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he may deem just. R.S.O. 1927, c. 91, s. 39.

Setting down  
appeals.

**40.** The appeal shall be made within the time and in the manner prescribed by the rules of court. R.S.O. 1927, c. 91, s. 40.



**41.**—(1) The Court of Appeal shall have all the powers and duties, as to amendment and otherwise, of the judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the Court, or as may be directed.

Powers to amend and receive further evidence.

(2) Such further evidence may be given without special leave as to matters which have occurred after the date of the judgment, order or decision complained of.

(3) Except as provided by subsection 2, upon an appeal from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only, and not without the special leave of the court. R.S.O. 1927, c. 91, s. 41.

**42.**—(1) On an appeal the Court of Appeal may set aside the judgment and may direct any other judgment to be entered, or may direct a new trial to be had, and make such other order as to costs and otherwise as appears just.

Order of Court of Appeal on appeal.

(2) The decision of the Court of Appeal shall be certified by the Registrar of the Court of Appeal to the clerk of the court with whom the judgment or order appealed from was entered, who shall thereupon cause the same to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon, as if the decision had been given in the court below. R.S.O. 1927, c. 91, s. 42.

#### TARIFF OF COSTS.

**43.**—(1) Notwithstanding the provisions of any other Act of this Legislature the Lieutenant-Governor in Council may:

Power of Lieutenant-Governor in Council as to,—

(a) make rules for regulating the practice and procedure in the county and district courts;

Rules of practice.

(b) make rules and regulations regulating and fixing all fees payable to the Crown in respect of proceedings in such courts;

Fees of Crown.

(c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;

Fees of solicitors.

(d) prescribe forms for use in such courts.

Forms.

(2) The existing rules, fees payable to the Crown, fees to be allowed to solicitors and forms, shall remain in force until altered, amended or repealed as in subsection 1 provided. 1935, c. 13, s. 4.

Existing rules, tariff and forms.

## CHAPTER 104.

## The General Sessions Act.

Interpreta-  
tion.

1. In this Act "Court" shall mean court of general sessions of the peace. R.S.O. 1927, c. 92, s. 1.

## JURISDICTION.

Jurisdiction.

R.S.C. c. 36.

2. The courts of general sessions of the peace shall have jurisdiction to try all criminal offences except homicide, and the offences mentioned in section 583 of the *Criminal Code*. R.S.O. 1927, c. 92, s. 2.

## SITTINGS.

General ses-  
sions when  
to be held.

3.—(1) Except in the Counties of Carleton, Middlesex, Wentworth and York, sittings of the court shall be held in every county semi-annually, commencing on the first Tuesday in the months of June and December in each year. R.S.O. 1927, c. 92, s. 3 (1); 1937, c. 28, s. 2 (1).

General  
sessions,—  
postpone-  
ment of.

(2) The judges of the county court district may postpone the date of such sittings provided such postponement does not, in the opinion of the judges, conflict or interfere with the sittings of the Supreme Court in such county court district.

Notice of  
postpone-  
ment.

(3) Where any such sittings are so postponed, notice of such postponement and of the date upon which such sittings shall commence shall be posted in the office of the county court clerk in every county in the county court district not later than sixty days prior to the commencement of such postponed sittings. 1937, c. 28, s. 2 (2).

General  
sessions,—  
county of  
York.

(4) In the county of York the sittings of the court shall be held four times in the year commencing on the first Tuesday in the months of December, March and May and on the second Tuesday in the month of September in each year.

County of  
Wentworth.

(5) In the county of Wentworth the sittings of the court shall be held four times in the year commencing on the first Tuesday in the months of December and March and on

the second Tuesday in the months of May and September. 1935, c. 24, s. 2 (1).

(6) In the Counties of Carleton and Middlesex two such sittings shall be held in each year to commence on the first Tuesday in June and December. R.S.O. 1927, c. 92, s. 3 (3). Counties of Carleton and Middlesex.

(7) In any county two or more concurrent sittings of the court may be held for the trial of cases with or without a jury and the hearing of appeals. R.S.O. 1927, c. 92, s. 3 (4); 1933, c. 59, s. 8. Concurrent sittings.

4. The sittings of the court shall be held in the county town of the county, unless the Lieutenant-Governor, by proclamation, authorizes the holding of the sittings at some other place in the county. R.S.O. 1927, c. 92, s. 4. Place of sittings.

5. In the provisional judicial districts sittings of the court shall be held at the same time and place as the sittings of the district courts for the trial of issues of fact and assessment of damages with or without a jury. R.S.O. 1927, c. 92, s. 5. Sittings in provisional judicial districts.

6. The judge of the county or district court as the case may be, or a junior or deputy judge shall be the chairman of the court and shall preside at the sittings thereof. R.S.O. 1927, c. 92, s. 6. Who may preside.

7. Where a judge is present it shall not be necessary, in order to constitute the court, that an associate or other justice of the peace should be present. R.S.O. 1927, c. 92, s. 7. Sittings of associate justice of peace dispensed with when a judge present.

8.—(1) Where a judge is unable to hold the sittings at the time appointed the sheriff or his deputy may, by proclamation, adjourn the court to any hour on the following day to be by him named, and so from day to day until a judge is able to hold the court or until he receives other directions from the judge or from the Attorney-General. When adjournment permitted.

(2) The sheriff shall forthwith give notice of such adjournment to the Attorney-General. R.S.O. 1927, c. 92, s. 8. Attorney-General to be notified.

#### RESCINDING ORDERS OF COURT.

9. Except where otherwise provided by law an order, which has been passed or recorded by any number of justices of the peace, shall not be rescinded unless at least the same number is present. R.S.O. 1927, c. 92, s. 9. When order of justices may be rescinded.

## CLERK OF THE PEACE.

Clerk of the peace.

**10.**—(1) There shall be a clerk of the peace for every county and district, who shall be appointed by the Lieutenant-Governor in Council.

Clerk of the peace; qualification and residence.

(2) No person shall be appointed clerk of the peace who is not a barrister of at least three years' standing at the Bar of Ontario, and except where otherwise provided by Order-in-Council, a resident of the county or district for which he is appointed.

(3) Except in the County of York every clerk of the peace shall be *ex officio* Crown attorney for the county or district for which he is clerk of the peace. R.S.O. 1927, c. 92, s. 10 (1-3).

Resigning office of Crown attorney and retaining office of clerk of the peace.

(4) Where a person holding the office of Crown attorney and clerk of the peace desires, on account of the condition of his health or from his age, to resign the former, retaining the latter office, he may do so with the approval of the Lieutenant-Governor in Council, and in such case the person appointed in his place shall, on a vacancy occurring in the office of the clerk of the peace, be *ex-officio* clerk of the peace.

In County of York.

(5) In the County of York, the offices of clerk of the peace and Crown attorney may be held by different persons. R.S.O. 1927, c. 92, s. 10 (5, 6).

(NOTE.—*As to fees of clerk of peace, see The Administration of Justice Expenses Act, Rev. Stat., c. 141.*)

Power of Lieut.-Gov. in Council as to,—

**11.**—(1) Notwithstanding the provisions of any other Act of this Legislature the Lieutenant-Governor in Council may—

Rules of practice.

(a) make rules for regulating the practice and procedure in the county and district courts;

Fees of Crown.

(b) make rules and regulations regulating and fixing all fees payable to the Crown in respect of proceedings in such courts;

Fees of solicitors.

(c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;

Forms.

(d) prescribe forms for use in such courts.

Existing rules, tariff and forms.

(2) The existing rules, fees payable to the Crown, fees to be allowed to solicitors and forms, shall remain in force until altered, amended or repealed as in subsection 1 provided. 1935, c. 24, s. 3.



## CHAPTER 105.

### The County Court Judges Criminal Courts Act.

1.—(1) The judge of every county and district court, or the junior or deputy judge thereof, authorized to preside at the sittings of the court of the general sessions of the peace, is constituted a court of record for the trial, out of sessions and without a jury, of any person committed to gaol on a charge of being guilty of any offence for which such person may be tried at a court of general sessions of the peace, and for which the person so committed consents to be tried out of sessions, and without a jury, and the court so constituted shall have the powers and perform the duties mentioned in Part XVIII of the *Criminal Code*.  
Judges of the county court constituted a court for trial of certain offenders without jury.  
Powers and duties.  
R.S.C.  
1927, c. 36.

(2) The court so constituted shall be called the county or district court judges' criminal court of the county or district in which the same is held, as the case may be. R.S.O. 1927, c. 93, s. 1.  
Style of court.

2. Where under any of the provisions of the *Criminal Code* (Canada) or of *The Summary Convictions Act* an appeal is made to a county or district court, such appeal may be heard by the county or district judge in the court constituted under this Act. 1934, c. 54, s. 9.  
Appeals.  
R.S.C., c. 36,  
Rev. Stat.,  
c. 136.

## CHAPTER 106.

## The Surrogate Courts Act.

## INTERPRETATION.

Interpreta-  
tion.

## 1. In this Act,—

“Adminis-  
tration.”

- (a) “Administration” shall include all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes;

“Common  
form busi-  
ness.”

- (b) “Common form business” shall mean the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a surrogate court when the contest is terminated, and all business of a non-contentious nature to be taken in a surrogate court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate of administration;

“County.”

- (c) “County” shall include provisional judicial district;

“Matters  
and causes  
testament-  
ary.”

- (d) “Matters and causes testamentary” shall include all matters and cause relating to the grant and revocation of letters probate of wills or letters of administration;

“Will.”

- (e) “Will” shall include a testament, and all other testamentary instruments of which probate may be granted. R.S.O. 1927, c. 94, s. 1.

## SURROGATE COURTS.

A surrogate  
court to be  
in each  
county.

2. There shall be in and for every county a court of record to be styled “The Surrogate Court of the County (*or* united Counties *or* District) of ———” (*inserting the name of the county or united counties or district*). R.S.O. 1927, c. 94, s. 2.

3. Every such court shall be provided with a suitable seal <sup>Seal.</sup> to be approved of by the Lieutenant-Governor. R.S.O. 1927, c. 94, s. 3.

4. The sittings of the court shall be held in the county <sup>Sittings, where held.</sup> town and shall be presided over by the judge thereof. R.S.O. 1927, c. 94, s. 4.

#### JUDGES.

5. The judge of the surrogate court shall be appointed <sup>Appointment.</sup> by the Lieutenant-Governor in Council, and shall hold office during good behaviour and residence in the county for which he is appointed, and shall be subject to be removed by the Lieutenant-Governor in Council for inability, incapacity or misbehaviour established to his satisfaction. R.S.O. 1927, c. 94, s. 5.

6.—(1) In case of a vacancy in the office or of the illness <sup>Illness, absence or vacancy in office of judge.</sup> or absence, or at the request in writing, of the judge of the surrogate court of any county or district any judge who has authority to preside over the county or district court of the county or district, or in the case of a county or district for which there is only one judge, any barrister of ten years' standing, on the request in writing of the judge of the surrogate court or of the Attorney-General for Ontario, may act as judge of the surrogate court.

(2) Except in the case of a vacancy, where a judge so acts <sup>Fees in such cases.</sup> he shall not be entitled to the fees, unless with the consent of the judge of the surrogate court.

(3) Where a judge of a county court, who is also judge <sup>When judge-ship of surrogate court vacated.</sup> of the surrogate court, vacates his county court judgeship, unless the Lieutenant-Governor in Council otherwise directs, he shall thereby vacate his judgeship of the surrogate court. R.S.O. 1927, c. 94, s. 6.

7. Every judge of a surrogate court, before entering upon <sup>Oath of office.</sup> the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

"I, \_\_\_\_\_, do swear that I will truly and faithfully, according to the best of my skill and knowledge, execute the duties, powers and trusts of Judge of the Surrogate Court of the County (or United Counties or District), of \_\_\_\_\_  
So help me God."

R.S.O. 1927, c. 94, s. 7.

8. The judge of the surrogate court of a county forming <sup>Powers and duties of judge.</sup> part of a county court district may exercise and perform in

any part of such district any power or duty assigned to the judge of a surrogate court by any statute of Ontario. 1937, c. 75, s. 2, *part*.

#### SURROGATE CLERK AND REGISTRARS.

Appointment  
of surrogate  
clerk, his  
duties.

**9.** There shall be an officer, to be called the surrogate clerk, who shall be deemed an officer of the Supreme Court, and shall be appointed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 94, s. 8.

Registrar.

**10.** There shall be a registrar for every court who shall be appointed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 94, s. 9.

Oath of  
registrar.

**11.** Every registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I, \_\_\_\_\_, do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the \_\_\_\_\_, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1927, c. 94, s. 10.

Security to  
be given by  
registrars.

**12.** Every registrar, before entering upon the duties of his office, shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act*, relating to the giving of security, shall apply to such security. R.S.O. 1927, c. 94, s. 11.

Rev. Stat.,  
c. 16.

Registrar's  
office.

**13.—(1)** The registrar shall keep his office in the court house of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the judge directs.

In the  
County of  
Essex.

**(2)** The registrar of the surrogate court of the County of Essex may keep an office in some convenient place in the city of Windsor, subject to such arrangements as the county council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1927, c. 94, s. 12.

Depository  
for the wills  
of living  
persons.

**14.** The office of the registrar shall be a depository for all wills of living persons given to him for safe keeping, and the registrar shall receive and keep the same upon payment of such fees and under such regulations as may be prescribed by the surrogate court rules. R.S.O. 1927, c. 94, s. 13.



**15.** The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in his court, subject to such regulations as may be prescribed by the surrogate court rules. R.S.O. 1927, c. 94, s. 14.

Preservation of testamentary instruments, papers, etc.

**16.** On the third day of every month, or oftener if required by the surrogate court rules, every registrar shall transmit by mail to the surrogate clerk a list, in such form and containing such particulars as may be prescribed by such rules, of the grants of probate and administration made by his court up to the last day of the preceding month, and also a copy, certified by him to be a correct copy, of every will to which the same relate, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1927, c. 94, s. 15.

Transmission to surrogate clerk of list of grants, etc.

**17.** Neither the surrogate clerk nor a registrar shall for fee or reward draw or advise upon any will, or upon any paper or document connected with the duties of his office, for which a fee is not expressly allowed to him by the tariff. R.S.O. 1927, c. 94, s. 16.

Surrogate Clerk and Registrars not to take fees for drawing or advising on certain documents.

(NOTE—For returns by Registrars of Surrogate Courts, see *The Public Officers' Act*.) Rev. Stat., c. 16.

#### JURISDICTION AND POWERS OF THE SURROGATE COURTS.

**18.** Subject to the provisions of *The Judicature Act*, all jurisdiction and authority in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, shall be vested in the several surrogate courts. R.S.O. 1927, c. 94, s. 17.

Testamentary jurisdiction to be exercised by the surrogate courts. Rev. Stat., c. 100.

**19.** An action for a legacy or for the distribution of a residue shall not be entertained by any surrogate court. R.S.O. 1927, c. 94, s. 18.

No action for legacy or distribution of residue.

**20.** Letters of administration shall not be granted to a person not residing in Ontario, but this shall not apply to resealing letters under section 72. R.S.O. 1927, c. 94, s. 19.

Administration not to be granted to non-resident.

**21.** Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the British Dominions, unless such person shall have given the like security as is required from an administrator in case of intestacy, unless in

Probate or letters ancillary to persons not residing in British Dominions.

the opinion of the judge, such security should, under special circumstances, be dispensed with or be reduced in amount. R.S.O. 1927, c. 94, s. 20.

Grant, of probate or administration jurisdiction.

**22.**—(1) The granting of probate or letters of administration shall belong to the surrogate court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

Where decedent had no domicile in Ontario.

(2) If the testator or intestate had no fixed place of abode in, or resided out of Ontario at the time of his death, the grant may be made by the surrogate court of any county in which the testator or intestate had property at the time of his death.

When any court may make grant.

(3) In other cases the granting of probate or letters of administration shall belong to the surrogate court of any county. R.S.O. 1927, c. 94, s. 21.

Where surrogate judge is applicant.

**23.** Where the person or one of the persons entitled to apply for probate of a will or for letters of administration is judge of the court having jurisdiction in the matter, and he does not renounce, application by him for such probate or letters, and any subsequent application in the matter of the estate by him or by any other person may be made to the judge of the surrogate court for an adjoining county, who shall have the same authority as to such application, and generally in all matters connected with the estate, as if he were the judge of the surrogate court having jurisdiction, and he shall be entitled to the same fees, to be paid in stamps if his fees have been commuted, as he would have been entitled to if the application had been made or proceedings had been taken in the court of which he is judge. R.S.O. 1927, c. 94, s. 22.

Effect of probate or letters granted without jurisdiction.

**24.** Letters probate and letters of administration granted by a surrogate court not having jurisdiction to grant the same shall, nevertheless, until revoked, have the same force and effect as if they had been granted by a surrogate court having jurisdiction. R.S.O. 1927, c. 94, s. 23.

Effect of probate and administration.

**25.** Letters probate and letters of administration shall have effect in all parts of Ontario. R.S.O. 1927, c. 94, s. 24.

#### POWER TO TRY BY JURY.

Trial of questions of fact by a jury.

**26.**—(1) The court may cause any question of fact arising in any proceeding therein to be tried by a jury before the judge of the court, and such trial shall take place at

some ensuing sittings of the county court for the county, and be conducted in the same manner as other trials by jury in such court, and the parties shall be entitled to their right of challenge, and, for all purposes of, or incidental to the trial of questions of fact by a jury, the court and the judge thereof shall have the same jurisdiction, power and authority in all respects as belong to the county courts, and the judges thereof, for like purposes.

(2) The question directed to be tried by a jury shall be reduced into writing in such form as the court directs. R.S.O. 1927, c. 94, s. 25. The issue.

**27.**—(1) Whether any suit or other proceeding is or is not pending in the court with respect to any probate or administration, every surrogate court may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary which is shown to be in the possession or under the control of such person. Production of instruments purporting to be testamentary.

(2) If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar, or such person as the court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person shall be subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding shall be in the discretion of the court. R.S.O. 1927, c. 94, s. 26. Examination of persons touching such instruments.

**28.**—(1) Any contentious cause or proceeding may be removed into the Supreme Court by order of a judge of such Court if it is of such a nature and of such importance as to render it proper that the same should be disposed of by the Supreme Court, and the property of the deceased exceeds \$2,000 in value. Removal of proceeding to Supreme Court.

(2) The judge may impose such terms as to payment of or security for costs or otherwise as he may deem just. Terms.

(3) The judgment of the Supreme Court in any cause or proceeding so removed shall be certified to the registrar Transmission of judgment to surrogate court.

of the surrogate court from which the cause or proceeding was removed. R.S.O. 1927, c. 94, s. 27.

#### APPEALS.

Appeal to  
Court of  
Appeal in  
certain cases.

**29.**—(1) Any party may appeal to the Court of Appeal from an order, determination or judgment of a surrogate court, in any matter or cause when the value of the property affected by such order, determination or judgment exceeds \$200.

New trial.

(2) A motion for a new trial after a trial by jury shall be deemed an appeal.

Appeal from  
audit of ac-  
counts, adju-  
dication of  
claim, or  
adjudication  
on title when  
amount ex-  
ceeds \$200.

(3) An appeal shall also lie to a judge of the Supreme Court from any order, decision or determination of the judge of a surrogate court, on the taking of accounts or upon an adjudication or to a claim or demand or as to the title to any property if the amount involved exceeds \$200 in like manner as from the report of a Master under a reference directed by the Supreme Court. R.S.O. 1927, c. 94, s. 28.

#### PRACTICE.

##### *Proofs to lead grant.*

Where de-  
ceased  
resided in  
Ontario.

Affidavit as  
to place  
of abode.

**30.**—(1) On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted.

Death or  
absence of  
witnesses  
of soldier's  
or sailor's  
will.

(2) Where upon the application for probate of the will of any soldier, mariner, or seaman who was on active military or naval service at the time of the execution of the will, it appears that the witnesses, are dead or are incompetent, or that the whereabouts of the witnesses, or either of them, is unknown, the judge of the surrogate court to whom such application is made, may accept such evidence as he may consider satisfactory as to the validity and proper execution of such will notwithstanding anything contained in this Act or in the rules or regulations of the surrogate court to the contrary.



(3) No probate or letters of administration shall be granted unless and until the judge is satisfied that there is no under-valuation of the estate of which probate or administration is being sought.

Probate not to be granted until judge has proof of no under-valuation.

(4) In cases where there is a necessity for the speedy issue of probate or administration and there is difficulty in ascertaining the true valuation of an estate, the judge may report the same to the Treasurer of Ontario, and such probate or administration may be issued upon the written consent of the Treasurer or someone authorized by him to consent in such cases.

Issue of probate before valuation.

(5) The judge before granting an order for probate or letters of administration shall satisfy himself whether any transfer of dutiable property has been made by the testator or intestate since 1892, and if such a transfer has been made he shall forthwith notify the Treasurer of Ontario, and probate or letters of administration shall not be issued in such a case without the written consent of the Treasurer or someone authorized by him to consent in such cases.

Duty of judge as to transfers of property of deceased before death.

(6) The Lieutenant-Governor in Council may make rules and regulations for the better carrying out of the provisions of subsection 3 to 5. R.S.O. 1927, c. 94, s. 29.

Regulations.

**31.** On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property within the county to the surrogate court of which the application is made, or leaving no property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario Gazette*, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1927, c. 94, s. 30.

Where deceased had no fixed place of abode in Ontario. Affidavit.

**32.** The affidavit as to the place of abode and property of the deceased under sections 30 and 31, for the purpose of giving a particular court jurisdiction shall be conclusive for the purpose of authorizing the exercise of such jurisdiction, and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode within the particular county, or had not property therein at the time of his

Conclusiveness of affidavits.

When proceedings may be stayed.

death, but in case it is made to appear to the judge of a surrogate court before whom the application is pending, that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he may deem just. R.S.O. 1927, c. 94, s. 31.

Proof, etc., requisite for obtaining grant to party not next of kin to intestate.

**33.** Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the surrogate court rules. R.S.O. 1927, c. 94, s. 32.

Temporary administration in certain cases.

**34.**—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario.

Security to be given.

(2) The administrator so appointed shall give such security as the court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the court. R.S.O. 1927, c. 94, s. 33.

Quebec notarial wills.

**35.** Subject to the provisions of subsection 3 of section 72, a notarial will made in the Province of Quebec may be admitted to probate without the production of the original will upon filing a notarial copy thereof together with the other proper proofs to lead grant. 1929, c. 23, s. 4 (1).

### *Notice of Applications.*

Notice to surrogate clerk, of applications.

**36.** Notice of every application for the grant of probate or administration shall be transmitted by the registrar, by registered post, to the surrogate clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as may be prescribed by the surrogate court rules. R.S.O. 1927, c. 94, s. 34.

**37.** Unless upon special order of the court, no probate or administration shall be granted until the registrar has received a certificate, under the hand of the surrogate clerk, that no other application appears to have been made in respect of the property of the deceased, which certificate the surrogate clerk shall forward as soon as may be to the registrar. R.S.O. 1927, c. 94, s. 35.

Certificate from surrogate clerk.

**38.** All notices in respect of applications shall be filed and kept by the surrogate clerk. R.S.O. 1927, c. 94, s. 36.

Surrogate clerk to file notices.

**39.** The surrogate clerk shall, with reference to every such notice, examine all notices of such applications received from the several registrars, so far as appears to be necessary to ascertain whether or not application for probate or administration in respect of the property of the deceased has been made in more than one surrogate court, and he shall communicate with the registrars as occasion may require in relation to such applications. R.S.O. 1927, c. 94, s. 37.

Duty of surrogate clerk with reference to notices.

**40.—(1)** Where it appears by the certificate of the surrogate clerk that application for probate or administration has been made to two or more surrogate courts, the judges of such courts respectively shall stay proceedings therein, leaving the parties to apply to a judge of the Supreme Court for such direction in the matter as he may deem necessary.

Where application made to more than one surrogate court.

**(2)** On application made to such judge he shall inquire into the matter in a summary way and adjudge and determine what surrogate court has jurisdiction.

Judgment as to what court shall have jurisdiction.

**(3)** The judge may order costs to be paid by any of the applicants, and the order shall be enforced by the Supreme Court.

Order as to costs.

**(4)** The determination of the judge shall be final and conclusive, and the surrogate clerk shall, without delay, transmit a certified copy of the judge's order to the registrars of the surrogate courts wherein such applications were made. R.S.O. 1927, c. 94, s. 38.

Judge's decision to be final.

#### *Caveats.*

**41.** Caveats against the grant of probate or administration may be lodged with the surrogate clerk or with the registrar of any surrogate court. R.S.O. 1927, c. 94, s. 39.

Lodging.

**42.** Upon a caveat being lodged, the registrar shall without delay send a copy thereof to the surrogate clerk to be entered among the caveats lodged with him, and, upon notice

Notice of caveats.

of an application being received from the registrar of a surrogate court under section 36, the surrogate clerk shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 37. R.S.O. 1927, c. 94, s. 40.

*Proof of Wills in Solemn Form.*

Citation of persons interested.

**43.** Where proceedings are taken for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have any interest in the property affected by the will may, subject to the provisions of this Act and to the surrogate court rules, be summoned to see the proceedings, and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1927, c. 94, s. 41.

*Executors.*

Citation to prove or renounce.

Imp. 21 Hen. 8, c. 5, s. 6.

**44.** The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1927, c. 94, s. 42.

Consequences of failure to appear.

Imp. 21 and 22, V. c. 95, s. 16.

**45.** When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear his right in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his property, shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor. R.S.O. 1927, c. 94, s. 43.

*Infant Executors.*

Where an infant sole executor.  
Imp. 38, Geo. III, c. 87, s. 6.

**46.** Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of such infant, or to such other person as the court shall think fit, until such infant shall have attained the full age of twenty-one years, at which period, and not before, probate of the will may be granted to him. R.S.O. 1927, c. 94, s. 44.

Power of administrator in such case.

Imp. 38, Geo. 3, c. 87, s. 7.

**47.** The person to whom such administration is granted shall have the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next of kin. R.S.O. 1927, c. 94, s. 45.



## COPIES OF WILLS.

**48.** An official copy of the whole or any part of a will, or an official certificate of the grant of any letters of administration, may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1927, c. 94, s. 46.

How copies obtained.

## ADMINISTRATION PENDENTE LITE.

**49.** Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the surrogate court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person, and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court may deem proper. R.S.O. 1927, c. 94, s. 47.

When and by whom granted.

Rights and powers of the administrator.

## POWERS AND DUTIES OF EXECUTORS, ADMINISTRATORS AND GUARDIANS.

*Generally.*

**50.**—(1) Subject to the provisions of subsection 3, where a person dies intestate, or the executor named in his will refuses to prove the same, administration of the property of the deceased may be committed by the surrogate court having jurisdiction, to the husband, or to the wife, or to the next of kin, or to the wife and next of kin, as in the discretion of the court shall seem best, and where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next of kin, where there are more persons than one of equal kindred the administration may be committed to such one or more of such next of kin as the court may think fit.

To what persons administration shall be granted.  
Imp. 31,  
Edw. 3, St.  
1, c. 11, 21  
Hen. 8, c. 5,  
s. 2.

(2) Subject to subsection 3, where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another person be appointed to be the administrator of the property of the

Appointment at request of parties interested.

deceased, or of any part of it, the right which such persons possessed to have administration granted to them in respect of it shall belong to such person.

General power as to appointment of administrator under special circumstances.

(3) Where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it shall not be obligatory upon the court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the court may appoint such person as the court thinks fit upon his giving such security as the court directs, and every such administration may be limited as the court thinks fit.

Appointment of trust company.

(4) A trust company may be appointed as administrator under subsection 2 or subsection 3, either alone or jointly with another person. R.S.O. 1927, c. 94, s. 48.

After grant of administration no person to act as executor.

**51.** After a grant of administration no person other than the administrator or executor shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant or administration, until such administration has been recalled or revoked. R.S.O. 1927, c. 94, s. 49.

Administration limited to personal estate.

**52.** A person entitled to letters of administration to the property of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1927, c. 94, s. 50.

### *Inventories.*

Filing inventory. Imp. 21, Hen. 8, c. 5, s. 4.

**53.—**(1) The person applying for a grant of probate, or administration, shall, before the same is granted, make or cause to be made and delivered to the registrar a true and perfect inventory verified by the oath of the applicant of all the property which belonged to the deceased at the time of his death.

Further inventory of subsequently discovered property.

(2) When after the grant of probate, or letters of administration, any property belonging to the deceased at the time of his death, and not included in such inventory, is discov-

ered by the executor, or administrator, he shall, within six months thereafter, make and deliver to the registrar an inventory, duly verified by oath, of such newly discovered property.

(3) Where the application or grant is limited to part only of the property of the deceased it shall be sufficient to set forth in such inventory the property intended to be affected by such application or grant. Inventory in case of limited grant. R.S.O. 1927, c. 94, s. 51.

**54.** Where after a grant has issued out of the surrogate court the value of the estate has been increased for succession duty purposes, the executor or administrator shall forthwith pay to the registrar of the surrogate court from which the grant issued, the additional fees that would have been payable at the time of the issue had the value of the estate been placed at the amount to which it has been so increased, and the registrar shall account for such additional fees in the same manner as if the same had been paid at the time of the issue of the grant. Fees on increased valuation. 1929, c. 23, s. 4 (2).

### *Executor Renouncing.*

**55.** Where a person renounces probate of the will of which he is appointed an executor his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his property shall and may, without any further renunciation, go, devolve and be committed in like manner as if such person had not been appointed executor. Consequences upon executor renouncing. R.S.O. 1927, c. 94, s. 53.

(NOTE—*As to removal of executors, see The Trustee Act.*) Rev. Stat., c. 165.

### *Sureties.*

**56.** Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the surrogate court by which the grant is made, to enure for the benefit of the judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the surrogate court rules, Bonds.

and in cases not provided for by the rules, the bond shall be in such form as the judge may by special order direct. R.S.O. 1927, c. 94, s. 54.

When security not required.

**57.** It shall not be necessary for the Government of Ontario or any department thereof or any Provincial Commission or Board created under any Act of this Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under the provisions of any statute. 1935, c. 69, s. 2.

Penalty in bonds, etc., and as to dividing liabilities of sureties.

**58.**—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, unless the judge directs that the same shall be reduced, and the judge may also direct that more bonds than one may be given so as to limit the liability of any surety to such amount as the judge deems proper.

When amount of security may be reduced.

(2) The amount of the security may from time to time be reduced by the judge to double the amount of the property remaining in the hands of the administrator, according to the last audit of his accounts by the judge. R.S.O. 1927, c. 94, s. 55.

Power of surrogate courts as to assignment of bonds.

**59.** The judge on application made in a summary way, and on being satisfied that the condition of the bond has been broken, may order the registrar to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him, and shall recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1927, c. 94, s. 56.

Accounts to be rendered.

**60.** The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1927, c. 94, s. 57.

New or additional security in certain cases.

**61.**—(1) Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if the same is not



furnished as directed by the judge he may revoke the grant of administration or letters of guardianship.

(2) The order may be made by the judge *sua sponte* or on the application of any person interested. R.S.O. 1927, c. 94, s. 58. Order by judge *sua sponte* or on application.

**62.**—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation, or where an administrator or guardian desires to substitute other security for that furnished by him, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished, on such terms as to the judge may seem proper, and may direct that, on the substituted security being furnished and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged. Substitution of security.

(2) The application may be made *ex parte* or on such notice as the judge directs. R.S.O. 1927, c. 94, s. 59. How application made.

**63.** Where an executor or administrator has passed his final account and has paid into court or distributed the whole of the property of the deceased which has come to his hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1927, c. 94, s. 60; 1930, c. 21, s. 8 (1). Cancellation of security.

**64.** Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be delivered up to be cancelled, but where an infant was or is entitled to any part of the estate under such distribution the order shall not be made until after such notice as the judge may direct has been given to the Official Guardian, and where any person who is a patient in an institution under *The Mental Hospitals Act* was or is entitled to any part of the estate under such distribution, the order shall not be made until after like notice has been given to the Public Trustee. R.S.O. 1927, c. 94, s. 61; 1930, c. 21, s. 8 (1). Cancellation of bond of administrator in distribution of estate.

(NOTE—As to bonds of guarantee companies, see *The Guarantee Companies Security Act*.) Rev. Stat., c. 263.

#### *Contestation of Claims Against Estate.*

**65.**—(1) Where a claim or demand is made against the estate of a deceased person, or where the personal representative has notice of such claim or demand, he may serve the Notice of contestation of claim against estate.

claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section. R.S.O. 1927, c. 94, s. 62 (1).

Application  
for order  
allowing  
claim.

(2) Within thirty days after the receipt of the notice of contestation mentioned in subsection 1, or within three months thereafter if the judge of the surrogate court on application so allows, the claimant may apply to the judge of the surrogate court for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he may deem just, and if such claimant does not make such application he shall be deemed to have abandoned his claim and the same shall be forever barred. 1933, c. 63, s. 2.

Claim within  
jurisdiction  
of division  
court.

(3) Where the claim is within the jurisdiction of the division court the application shall be made to a judge of a division court in which an action for the recovery of the claim might be brought, and shall be heard by the judge at the sittings of such court, unless the claimant and the personal representative consent to the application being made to the judge of the surrogate court, and in that case the application may be made to him.

Notice in  
such cases.

(4) Not less than seven days' notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the surrogate court, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct.

Right of per-  
sons inter-  
ested to  
be heard.

(5) Where the application is made to the judge of the surrogate court, in addition to the persons to whom notice has been given, any other person who is interested in the estate shall have the right to be heard and to take part in the proceedings.

Consent to  
jurisdiction  
of surrogate  
court in  
certain cases.

(6) Where the claim, or the part of it which is contested, amounts to \$800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor to bring an action for the recovery or the establishment of his claim, on such terms and conditions as the judge may deem just, and provided that the claimant and the personal representative may consent to have the trial before the judge of the surrogate court and in that case the trial shall take place and be disposed of before the surrogate court judge under this section.

(7) Where the claim is within the jurisdiction of the division court the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the surrogate court and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the surrogate judge having regard to the amount involved and the importance of the contest.

Fees and costs when claim within division court jurisdiction.

(8) Where an appeal lies, if the personal representative does not appeal from the order, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Supreme Court, appeal therefrom.

Right of persons interested in appeal.

(9) Where the claimant or the personal representative appeals, the Official Guardian, and any person beneficially interested in the estate, may, by leave of the court which hears the appeal, appear and be heard.

Right of person interested to be heard on appeal.

(10) The provisions of this section shall apply, notwithstanding that the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought.

Claims not presently payable.

(11) The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario.

Application for order allowing commission.

(12) The judge may make an order for the taking of the evidence of any material and necessary witness, residing in Ontario, who is sick, aged or infirm or is about to leave Ontario *de bene esse* and provide to whom notice of such examination is to be given.

Judge may make an order appointing a person to take testimony.

(13) A subpoena may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section.

Right to issue subpoenas out of court.

(14) The provisions of the rules of the Supreme Court so far as the same are applicable shall apply to every application for such commission or order for examination; the issue, execution, enforcement and return thereof and the judge shall have power to award costs of all such proceedings according to the tariff in force from time to time for like services in country courts.

Rules of Supreme Court shall apply.

(15) Where a claim is established under the provisions of this section no proceedings shall be taken to enforce payment of the same without the permission of the judge.

Permission for enforcement of judgment.

Enforce-  
ment of  
judgment.

(16) Where permission to enforce payment of a claim is given the order shall be filed in the county court and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1927, c. 94, s. 62.

Summary  
determina-  
tion of dis-  
putes as to  
ownership.

**66.** Where the personal representative of any person claims the ownership of any personal property not exceeding in value \$800 and his claim is disputed by any other person, such dispute may be determined in a summary manner and the provisions of section 65 shall *mutatis mutandis* apply. R.S.O. 1927, c. 94, s. 63.

Limitations  
Act not to  
apply in  
certain  
cases.

**67.**—(1) The provisions of *The Limitations Act* shall not affect the claim of any person against the estate of a deceased person where notice of such claim giving full particulars of the claim and verified by affidavit, is filed with the executor or administrator of such estate at any time prior to the date upon which the claim would be barred by the provisions of *The Limitations Act*, provided that where no executor or administrator has been appointed, such notice may be filed in the office of the registrar of the surrogate court of the county where such deceased person resided at the date of his death.

Rev. Stat.,  
c. 118.

(2) Where the claim of any person against any other person would be barred by *The Limitations Act* at any time within three months after the death of the person having such claim, such claim shall for all purposes be deemed not to be barred until three months after the date of such death. 1937, c. 75, s. 2, *part*.

#### *Accounts of Executor, Administrator or Guardian.*

Accounting  
by executor  
trustee.

**68.** An executor, who is also a trustee under the will, may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. R.S.O. 1927, c. 94, s. 64.

Effect of  
approval of  
accounts by  
surrogate  
judge.

**69.**—(1) Where an executor, administrator, trustee, under a will of which he is an executor, or a guardian, has filed in the proper surrogate court an account of his dealings with the estate, and the judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the Supreme Court such approval, except so far as mistake or fraud is shown, shall be binding upon any person who was notified of the proceedings taken before the surrogate judge, or who was present or represented thereat, and upon every one claiming under any such person.



(2) A guardian appointed by the surrogate court may pass the accounts of his dealings with the estate before the judge of the court by which letters of guardianship were issued. Passing accounts by guardians.

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, shall have jurisdiction to enter into and make full enquiry and accounting of and concerning the whole property which the deceased was possessed of or entitled to, and the administration and disbursement thereof in as full and ample a manner as may be done in the Master's office under an administration order, and, for such purpose, may take evidence and decide all disputed matters arising in such accounting subject to appeal. R.S.O. 1927, c. 94, s. 65 (1-3). Powers of judge on passing accounts.

(4) The judge, on passing any accounts under this section, shall have power to inquire into any complaint or claim by any person interested in the taking of the accounts, of misconduct, neglect, or default on the part of the executor, administrator or trustee, occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise, as he may deem proper and just, to the estate or trust fund; provided that any order made hereunder shall be subject to appeal. Further powers.

(5) The judge may order the trial of an issue of any complaint or claim under the provisions of subsection 4, and in such case he shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with such issue. May order trial and give directions as to pleadings, etc.

(6) Any person interested in the taking of such accounts, or any executor, administrator or trustee against whom any complaint or claim has been made on the passing of such accounts, as provided in subsection 4, may apply to a judge of the Supreme Court for an order removing the proceedings to the Supreme Court, if in his opinion the claim is of such a nature or of such importance as to render it proper that the same should be disposed of by the Supreme Court, and for the purpose of making such application, the applicant shall be entitled to an adjournment of the proceedings in the Surrogate Court. 1933, c. 63, s. 3. Removal to Supreme Court.

(7) The persons interested in the taking of such accounts or the making of such enquiries shall, if resident within Ontario, be entitled to not less than seven days' notice thereof, and, if resident out of Ontario, shall be entitled to such notice as the judge shall direct. Notice to persons interested.

Where person under disability interested.

Rev. Stat., c. 392.

(8) Where an infant or a person of unsound mind is interested, such notice may be served on the Official Guardian, except in the case of a person confined in an institution under *The Mental Hospitals Act*, when such notice shall be served on the Public Trustee and unless such notice is so given the infant or person of unsound mind shall not be bound by the passing of the accounts.

Notice of taking accounts to be served on Public Trustee.

(9) Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by him to or for any such purpose, notice of taking the accounts shall be served upon the Public Trustee.

Where person to whom administration granted is not next-of-kin.

(10) Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next-of-kin, and it appears to be doubtful whether the intestate left any next-of-kin him surviving or that there are no known next-of-kin resident in Ontario, notice of taking the accounts shall be served upon the Public Trustee.

Appointment of expert on examination of accounts.

(11) Where accounts submitted to the judge of a surrogate court are of an intricate or complicated character, and in the opinion of the judge require expert investigation, the judge may appoint an accountant or other skilled person to investigate and to assist the judge in auditing the accounts. R.S.O. 1927, c. 94, s. 65 (4-8).

At whose instance executors or administrators compellable to account. Imp. 1 Jac. II, c. 17, s. 6.

**70.**—(1) Neither an executor nor an administrator shall be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor shall such executor or administrator be otherwise compellable to account before any judge.

(2) This section shall apply notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1927, c. 94, s. 66.

#### ESTATES OF SMALL VALUE.

Fees where estate does not exceed \$400.

**71.**—(1) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed in value \$400,

the registrar shall prepare the necessary papers to lead grant, including all papers and proofs required by *The Succession Duty Act*, and the bond, if any, and administer the necessary oaths; and the total amount to be charged to the applicant for all the proceedings and services shall be \$2.

(2) Where letters probate, letters of administration or letters of guardianship are sought, and the whole property of the deceased or of the ward does not exceed \$1,000, the fees payable to the judge and the registrar shall be one-half of the fees payable according to the tariff in the case of an estate not exceeding in value \$1,000.

(3) If the judge has reason to believe that the property exceeds in value \$1,000, he shall refuse to proceed with the application until he is satisfied as to the real value.

(4) Subject to the provisions of subsection 1, where the whole property of the deceased, or of the ward, consists of insurance money, or of insurance money and wearing apparel, although general letters probate, general letters of administration or letters of guardianship are sought, the fees payable thereon shall be as follows:—

Where the insurance money does not exceed \$1,000.....	\$4.00
Where the insurance money exceeds \$1,000, but does not exceed \$2,000.....	6.00
Where the insurance money exceeds \$2,000, but does not exceed \$3,000.....	8.00

(5) The Lieutenant-Governor in Council may apportion the fees payable between the judge and the registrar. R.S.O. 1927, c. 94, s. 67 (1-5).

(6) The fees prescribed by this section shall be exclusive of any other fees payable to the Crown, and shall not include the fees payable in respect of contentious business. R.S.O. 1927, c. 94, s. 67 (6); 1937, c. 75, s. 3.

ANCILLARY PROBATES AND LETTERS OF ADMINISTRATION.

**72.**—(1) Where probate or letters of administration, or other legal document purporting to be of the same nature, granted by a court of competent jurisdiction in the United Kingdom, or in any province or territory of the Dominion, or in any other British possession, is produced to, and a copy thereof deposited with the registrar of any surrogate court,

and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the judge, be sealed with the seal of the surrogate court, and shall thereupon, as to personal property, be of the like force and effect in Ontario, as if the same had been originally granted by such surrogate court, and shall, so far as regards Ontario, be subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1927, c. 94, s. 68 (1).

Letters of  
verification  
in Quebec.

(2) Subject to the provisions of subsection 3, letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section. 1929, c. 23, s. 4 (3).

Effect of re-  
sealing as  
to real  
property.

Rev. Stat.,  
c. 164.

(3) Where it has been shown that the will was executed in manner and form sufficient to pass real property within Ontario under *The Wills Act* and the judge so certifies, the sealing shall have the same effect as to real property as if probate had been granted by the said surrogate court.

Security re-  
quired.

(4) The letters of administration shall not be sealed with the seal of the surrogate court until a certificate has been filed, under the hand of the registrar of the court which issued the letters, that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the surrogate court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1927, c. 94, s. 68 (2, 3).

#### FEEES AND COSTS.

Fees  
payable to  
Crown and  
judge.

**73.**—(1) The fees payable to the Crown and to the judge shall be payable in law stamps. 1937, c. 75, s. 4 (1).

Affixing  
stamps.

(2) The stamps, in respect of a grant of probate or administration or guardianship, shall be affixed to the order for the grant, and not to the probate or letters of administration or guardianship. R.S.O. 1927, c. 94, s. 69 (2).

Fees to be  
on value of  
whole estate.

**74.**—(1) The fees payable upon the value of the estate of the deceased shall be calculated upon the value of the whole estate, including the real estate as well as the personal estate, but nothing herein contained shall increase the fees payable to the registrar of the surrogate court and such fees



shall be calculated upon the value of the personal estate of the deceased.

(2) In calculating the value of the real property there Proviso.  
shall be deducted the actual value of any encumbrance thereon.  
R.S.O. 1927, c. 94, s. 70.

**75.**—(1) Notwithstanding the provisions of any other Power of  
Act of this Legislature the Lieutenant-Governor in Council Lieut.-Gov.  
in Council  
as to,—  
may,—

- (a) make rules for regulating the practice and procedure Rules of  
practice.  
in the surrogate courts;
- (b) make rules and regulations regulating and fixing all Fees.  
fees payable to the Crown, the judge, the registrar,  
and other officers of the court, and fees and expenses  
payable to witnesses, in respect of proceedings in  
such courts;
- (c) prescribe a tariff of fees to be allowed to solici- Fees of  
solicitors.  
tors and counsel practising in such courts;
- (d) prescribe forms for use in such courts. 1935, c. 69, Forms.  
s. 3, *part*; 1937, c. 75, s. 5.

(2) The existing rules, fees payable to the Crown, fees Existing  
rules, tariff  
and forms.  
to be allowed to solicitors and forms, shall remain in force  
until altered, amended or repealed as in subsection 1 pro-  
vided. 1935, c. 69, s. 3, *part*.

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## CHAPTER 107.

## The Division Courts Act.

## INTERPRETATION.

Interpreta-  
tion.

## 1.—(1) In this Act,—

- “Action.” (a) “Action” shall include a proceeding, suit, matter and cause;
- “County.” (b) “County” shall include provisional county and provisional judicial district;
- “County Court.” (c) “County Court” shall include district court;
- “Defendant.” (d) “Defendant” shall include primary debtor;
- “Division.” (e) “Division” shall mean the territory in and for which a division court is established; R.S.O. 1927, c. 95, s. 1 (1), cls. (a-e).
- “Inspector.” (f) “Inspector” shall mean Inspector of Legal Offices, appointed under *The Judicature Act*, 1937, c. 20, s. 2.
- “Judge.” (g) “Judge” shall mean and include the judge and a junior judge of the county court of the county in which the division for which a division court is constituted is situate;
- “Judgment creditor.” (h) “Judgment creditor” shall include a creditor who has obtained judgment against a garnishee;
- “Judgment debtor.” (i) “Judgment debtor” shall include a garnishee against whom judgment has been recovered;
- “Plaintiff.” (j) “Plaintiff” shall include primary creditor;
- “Prescribed Form.” (k) “Prescribed form” shall mean the form prescribed by this Act or by the general rules or orders relating to division courts. R.S.O. 1927, c. 95, s. 1 (1), cls. (g-k).

(2) Where in this Act, any power or authority is conferred or any duty is imposed upon the judge of the county court it shall be exercised or performed by him and not by a junior judge. Exclusive powers of county judge. R.S.O. 1927, c. 95, s. 1 (2).

2. Part I, except where otherwise therein provided, shall apply to every county and provisional judicial district in Ontario. Part II shall be applicable only to provisional judicial districts. Territorial application of parts of Act. R.S.O. 1927, c. 95, s. 2.

## PART I.

### APPLICABLE BOTH TO COUNTIES AND DISTRICTS.

#### THE COURTS.

3. The division courts, as existing at the time this Act takes effect, shall continue. Courts continued. R.S.O. 1927, c. 95, s. 3.

4. There shall be not more than twelve division courts in any county. Number of courts in any county. 1935, c. 20, s. 2.

5. The court in each division shall be called "The First Designation of court. Division Court of the County of *(or as the case may be)* ." R.S.O. 1927, c. 95, s. 5.

6. Every court shall have a seal, with which all process shall be sealed or stamped, and which shall be paid for out of the Consolidated Revenue Fund. Each court to have a seal. R.S.O. 1927, c. 95, s. 6.

7. The court shall be a court of record. To be courts of record. R.S.O. 1927, c. 95, s. 7.

8. The Lieutenant-Governor in Council may designate the place within the division where the office of the clerk shall be situated. Place of office of clerk. R.S.O. 1927, c. 95, s. 8.

9.—(1) A sittings of the court shall be held in each division once in every two months, or oftener in the discretion of the judge who presides over the division courts of the county, and the judge may appoint and from time to time alter the times and places for holding such courts, subject however to any direction which may be made by the Lieutenant-Governor in Council and shall notify the clerk thereof. Time and place of holding courts. R.S.O. 1927, c. 95, s. 9 (1); 1935, c. 20, s. 3 (1).

(2) Where it appears to the Lieutenant-Governor that, in any division of the county, it is expedient that the court should not be held so often as once in every two months, the Lieutenant-Governor in Council may order the court to be held at such periods as to him seems meet, but a court The Lieutenant-Governor may, in certain cases, regulate holding of courts.

shall be held in the division at least once in every six months. R.S.O. 1927, c. 95, s. 9 (2); 1935, c. 20, s. 3 (2).

Holding of  
courts in  
cities, offices  
of clerks  
therein.

**10.** In any city in which two division courts are established, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant-Governor in Council, keep their offices in the same division. R.S.O. 1927, c. 95, s. 10.

Sittings in  
Toronto.

**11.** Each of the courts for divisions within the City of Toronto shall, except during the month of August, hold sittings as follows:—

- (a) At least weekly for the trial of actions;
- (b) At least monthly for the hearing of judgment summonses; and
- (c) At least once in every two months for the trial of actions where juries have been demanded. R.S.O. 1927, c. 95, s. 11.

Division  
courts  
accommoda-  
tion.

**12.—(1)** The local municipality in which a division court is held shall provide a court room, not in or connected with an hotel, and other necessary accommodation for holding the court.

If there be no  
proper court  
room, etc.,  
the judge  
may hold  
court in any  
suitable  
place.

(2) If a proper court room and other necessary accommodation are not furnished by the municipality, the judge may hold the court in any suitable place in the division, or in any other division of the county in which suitable accommodation is provided, and the owner, lessee or tenant of the building in which the court is held shall be entitled to receive from the municipality whose duty it was to provide proper accommodation for the court the sum of \$5 for every day on which the court is held in the building.

Expenses  
for rent.

Judge to  
apportion  
costs in cer-  
tain cases.

(3) Where a municipality, not being a city or town, furnishes a court room and other necessary accommodation, or pays for the use of any building, the municipality shall be entitled to recover from any other municipality the whole or part of which is within the division, for which the court is held such reasonable share of the cost as shall be ordered by the judge of the court to be paid and contributed by the last mentioned municipality, and in every such case the total cost shall be deemed to be \$5 for every day on which the court is held.



(4) Where in any division the clerk and bailiff are paid for attending court sittings by the local municipality in which the division court is held, under the provisions of subsection 4 of section 41, such local municipality shall be entitled to recover from any other municipality for which the court is held, such reasonable share of the amount so paid to the clerk and bailiff as shall be ordered by the judge. R.S.O. 1927, c. 95, s. 12.

Right of municipalities to reimbursement for fees paid officers.

**13.** The sittings of the court in a county town may be held in the court house. R.S.O. 1927, c. 95, s. 13.

Use of court house.

**14.** The Lieutenant-Governor in Council may appoint and alter the number and limits of the divisions and may number the divisions. 1935, c. 20, s. 4.

Lieutenant-Governor to determine number and limits of divisions.

**15.** Actions and judgments in any court, the number or limits of which are changed, shall continue to be actions and judgments therein, but the judge may transfer any such action or judgment to any other court, and when so transferred the same shall be an action or judgment of such other court. R.S.O. 1927, c. 95, s. 15.

Actions and judgments continued when transferred.

**16.** The clerk of the peace, in a book to be kept by him, shall record the divisions declared and appointed, and the times and places of holding the courts, and the alterations made therein, and he shall transmit to the inspector a copy of the record. R.S.O. 1927, c. 95, s. 16.

Clerks of the peace to record time and place for holding courts.

**17.—(1)** Where a union of counties is dissolved or a county is separated from a union of counties,—

Actions where united counties are dissolved.

(a) the courts of divisions which were wholly within the senior county or remaining counties and those which were wholly within the junior or separated county shall continue to be courts of the senior county or remaining counties and of the junior or separated county respectively, and all actions and judgments therein shall continue to be actions and judgments in such courts until altered by the Lieutenant-Governor in Council;

(b) actions and judgments in courts or divisions the limits of which were partly within the senior county or remaining counties and partly within the junior or separated county, shall continue to be actions and judgments of such courts until transferred to some other court in accordance with this Act. R.S.O. 1927, c. 95, s. 17 (1).

Fixing  
number and  
limits of  
courts in a  
new county.

(2) The Lieutenant-Governor in Council may in the proclamation establishing a new county, or in a subsequent proclamation, to take effect in either case from a day to be named therein, fix and determine the number and limits of the courts for the new county, and may by the proclamation direct that actions and judgments in any court shall become actions and judgments in any other court and thereupon the same shall become actions and judgments of and shall be continued in such last mentioned court. R.S.O. 1927, c. 95, s. 17 (2); 1935, c. 20, s. 5 (1).

Writs and  
documents  
to be  
delivered up.

(3) Where an action or judgment in any court is transferred to another court the clerk or other officer of the court who holds any writ or document appertaining to such court or the business thereof shall deliver up the same to such person as the judge directs. R.S.O. 1927, c. 95, s. 17 (3).

Power of  
inspector as  
to regulation  
of limits on  
separation of  
a county.

(4) If the Lieutenant-Governor does not by proclamation fix and determine the number and limits of the divisions for the new county, the inspector shall, within three months after the issuing of the proclamation for establishing the new county, appoint the number and limits of the divisions for the county and the time when such appointment shall take effect. R.S.O. 1927, c. 95, s. 17 (4); 1935, c. 20, s. 5 (2).

#### THE JUDGE.

Who to  
preside.

**18.**—(1) The courts shall be presided over by the judge or by the junior judge or by the deputy judge.

Junior judge  
to hold  
division  
courts.

(2) The junior judge shall preside over the courts of the county, subject to any other arrangements from time to time made with the judge of the county court or, in the county of York, by a majority of the judges.

Senior judge  
to hold  
division  
courts  
when  
expedient.

(3) The appointment of a junior judge shall not prevent or excuse the judge from presiding at any of the courts within his county when the public interests require it. R.S.O. 1927, c. 95, s. 18.

Who to pre-  
side in case  
of illness or  
absence of  
judge.

**19.**—(1) The judge may appoint a barrister to act as his deputy, and the barrister so appointed shall have all the powers and privileges vested in and be subject to all the duties imposed by law upon the judge.

Provincial  
Secretary to  
be notified  
of appoint-  
ment.

(2) The judge shall forthwith send to the Provincial Secretary notice of the appointment, specifying the name and residence of the barrister so appointed and the cause of his appointment.

(3) No such appointment shall be continued for more than Duration. one month, and in case the Lieutenant-Governor in Council disapproves of the appointment, he may annul the same. R.S.O. 1927, c. 95, s. 19.

**20.** If the judge does not open court on the day appointed Adjournment of court if judge does not arrive in time. for that purpose, the clerk shall, after four o'clock in the afternoon, adjourn the court to an hour on the following day, to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the judge arrives to open court, or until other directions are received from him. R.S.O. 1927, c. 95, s. 20.

#### CLERKS AND BAILIFFS, ETC.

**21.** For every court there shall be a clerk and a bailiff or Every court to have clerk and bailiffs. bailiffs, who shall be appointed by the Lieutenant-Governor, and all clerks and bailiffs heretofore or hereafter appointed shall hold office during the pleasure of the Lieutenant-Governor. Tenure of office. R.S.O. 1927, c. 95, s. 21.

**22.** A clerk shall not practise as a barrister or solicitor. Clerk not to practise as barrister, etc. R.S.O. 1927, c. 95, s. 22.

**23.**—(1) It shall be the duty of the judge to see that the Judge to supervise. officers of his courts perform their duties, and to examine into complaints against them.

(2) The judge may for any cause suspend a clerk or bailiff, Suspensions. and in case of suspension shall forthwith report the same and the cause thereof to the Inspector, and if a vacancy occurs in the office of clerk or bailiff, the judge shall forthwith notify the Inspector. R.S.O. 1927, c. 95, s. 23.

**24.**—(1) Leave of absence for a period not exceeding two Leave of absence. months may be granted by the Inspector to a clerk or bailiff.

(2) With the approval of the judge, when prevented from When clerk may appoint deputy. acting by illness or accident, and with the approval of the Inspector the clerk or bailiff may appoint a deputy to act for him, with all his powers and privileges and subject to like duties, and the clerk and his sureties shall be jointly and severally responsible for all the acts and omissions of his deputy, and the bailiff and his sureties shall be jointly and severally responsible for all the acts and omissions of his deputy. R.S.O. 1927, c. 95, s. 24.

**25.**—(1) Every clerk and bailiff shall furnish such security Security by clerks and bailiffs. as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and, subject to section 27, the provisions of *The Public Officers Act*, Rev. Stat., c. 16. relating to the giving of security, shall apply to such security.

Security to  
enure to  
benefit of  
person  
injured.

(2) Such security shall enure to the benefit of any person suffering damages by the default, breach of duty or misconduct of the clerk or bailiff. R.S.O. 1927, c. 95, s. 25.

Entries of  
clerk or  
bailiff  
evidence  
against  
surety.

**26.**—(1) In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff shall be *prima facie* evidence against the surety.

Interpreta-  
tion of  
"clerk or  
bailiff."

(2) For the purpose of this section the words "clerk or bailiff" shall include a person who has ceased to be a clerk or a bailiff, as the case may be. R.S.O. 1927, c. 95, s. 26.

Agreements  
with  
fidelity  
company  
as to  
security for  
clerks and  
bailiffs.

**27.** The Lieutenant-Governor in Council may authorize the Inspector to enter into agreements in His Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario, for the furnishing of the security required by section 25, and may also make regulations regarding the same. R.S.O. 1927, c. 95, s. 27.

### *Clerk's Duties.*

Clerk to  
issue  
summonses  
and furnish  
copies, etc.

**28.** The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form, and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service. R.S.O. 1927, c. 95, s. 28.

Clerk to  
keep a  
record of  
process.

**29.** The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto, to be entered in a book to be kept in his office, and shall sign his name on every page of the book, and the signed entries, or a copy thereof certified as a true copy by the clerk, shall be sufficient evidence of such entries and of the proceedings referred to therein, without further proof. R.S.O. 1927, c. 95, s. 29.

Books to be  
kept by  
clerks.

**30.**—(1) A procedure book (Form 2), and a foreign procedure book (Form 3), shall be kept by the clerk.

Cost of  
division  
court books  
and forms.

(2) The costs of all books and forms, required by this Act to be kept by the clerk and bailiff shall be repaid to him by the treasurer of the county, upon the certificate of the inspector. R.S.O. 1927, c. 95, s. 30.

Forwarding  
summonses  
for service in  
other  
divisions.

**31.** The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from



whom it was received, and shall enter the proceedings in the foreign procedure book. R.S.O. 1927, c. 95, s. 31.

**32.** The clerk shall issue all warrants and executions, and shall tax costs, subject to revision by the judge, and shall keep an account of all fines payable or paid into court, and of all suitors money paid into and out of court, and shall enter an account of all such fines and money in a book to be kept by him for that purpose, which shall be open to all persons desirous of searching the same, and shall at all times be accessible to the judge and the Inspector. R.S.O. 1927, c. 95, s. 32.

Clerks to issue executions, tax costs and keep account of fines, etc.

**33.** The money arising from any penalty, forfeiture or fine imposed by or under authority of this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the clerk of the peace, to be paid over to the Treasurer of Ontario. R.S.O. 1927, c. 95, s. 33.

Fines and penalties to be paid to clerk of peace.

**34.** The clerk shall, at least once in every three months and oftener if required by the clerk of the peace, deliver to him a full account in writing verified by affidavit of all fines levied, accounting for and deducting the reasonable expenses of levying the same, and any allowance which the judge may make out of such fines in pursuance of the power hereinafter given. R.S.O. 1927, c. 95, s. 34.

Clerks to deliver to clerk of peace a verified account of fines.

**35.** The clerk, when required by the judge, shall furnish him with a full account in writing, verified by affidavit, of the money paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. R.S.O. 1927, c. 95, s. 35.

And furnish judge with a verified account of moneys paid in and out of court.

**36.**—(1) Immediately after the receipt of any sum of money for any person, the clerk shall forward a notice thereof by registered post, to the person entitled to receive the same, and shall obtain and file among the papers in the action the post office certificate of the registration, and shall deduct the postage from the money in his hands, but shall charge no fee for the notice.

Clerk to mail notice of payment of money.

Registration certificate to be with papers.

(2) The absence of the certificate of registration from among the papers in the action shall be *prima facie* evidence against the clerk that the notice has not been forwarded. R.S.O. 1927, c. 95, s. 36.

Effect of absence of certificate.

**37.**—(1) The clerk shall annually, in the month of January, make out a correct statement of all sums of money belonging to suitors or others which have been paid into court and have remained unclaimed for six years before

Clerk annually to make list of suitors' money in court for six years.

the last day of the month of December then last past, specifying the names of the persons for whom or on whose account the same were so paid.

Posting and distributing list.

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the court house or the place where the court is held, and copies shall also be sent to the Treasurer of Ontario and the Inspector.

Disposition of unclaimed moneys.

(3) All such sums shall form part of the Consolidated Revenue Fund, and shall be forthwith paid over by the clerk or officer holding the same to the Treasurer of Ontario, and, except by leave of the Lieutenant-Governor in Council, no person shall be entitled to claim any such sum which has remained unclaimed for six years.

Claims of persons under disability.

(4) The time during which the person entitled to claim the money was an infant or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. R.S.O. 1927, c. 95. s. 37.

#### *Disposal of Books and Papers when Clerk or Bailiff changed.*

Upon resignation, removal or death of clerk, clerk of peace to become possessed of papers.

**38.** All accounts, moneys, books, papers, documents, and other things in the possession of a clerk or bailiff by virtue of or appertaining to his office, shall, upon his death, resignation, or removal, immediately become the property of the clerk of the peace, who shall hold the same until the appointment of another clerk or bailiff, to whom he shall deliver over the same, when security has been furnished on behalf of such clerk or bailiff. R.S.O. 1927, c. 95, s. 38.

Clerk of peace to act as clerk when office of clerk is vacant.

**39.** Upon the death, resignation, suspension, or removal of the clerk, the clerk of the peace shall be the clerk until a successor is appointed or the suspension is removed, and the clerk of the peace shall be paid by the corporation of the county for his services in taking over the office the sum of \$5 together with actual disbursements. R.S.O. 1927, c. 95, s. 39.

#### *Duties of Bailiffs.*

Bailiffs to serve process.

**40.** The bailiff shall promptly serve and execute all summonses, orders, warrants, and executions delivered to him by the clerk, and shall so soon as served or executed return the same to the clerk, but subject to the provisions of section 64, he shall not be required to travel beyond the limits

of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. R.S.O. 1927, c. 95, s. 40.

*Fees of Clerks and Bailiffs, etc.*

41.—(1) The clerk and the bailiff shall be paid by fees Clerk and bailiffs to be paid by fees. as provided and allowed by the general rules or orders of the Board of County Judges in force on March 27th, 1935, or as may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 95, s. 41 (1); 1935, c. 20, s. 6.

(2) A table of the fees shall be kept posted up in some Table of fees to be posted up. conspicuous place in the office of the clerk.

(3) Until otherwise provided by general rule or order, the Fees of appraisers. fees to be taken and received by appraisers shall be as follows:—

To each Appraiser, during the time actually employed in appraising goods *(to be paid in first instance by the plaintiff and allowed as costs in the cause)*..... One dollar per day.

(4) Where the fees and emoluments earned by a clerk or bailiff are less than \$1,000 a year, the local municipality in which the division court is held shall pay to the clerk and bailiff respectively the sum of \$4 for attending each sitting of the court. R.S.O. 1927, c. 95, s. 41 (2-4).

42.—(1) Where the claim sued for, exclusive of interest Cases where amount involved not more than \$10. and costs, does not exceed \$10, the tariff of clerk's or bailiff's fees shall not apply, except the fees for mileage to a bailiff, the fees for enforcing the warrant of attachment, warrant against the body or summons in replevin, and the fee allowed to the clerk for receiving papers from another division for service, entering the same, handing the same to the bailiff and receiving and entering his return.

(2) The fees taxable to the clerk and bailiff in an action Fees of clerks and bailiffs. in which the sum sued for as aforesaid does not exceed \$10 shall, except as hereinbefore provided, be as follows:—

To the clerk for any and all services rendered by him as such clerk from the time of entering the action or suing out an interpleader summons up to and including the entering of final judgment or final order on any such judgment or summons, in case the action proceeds to judgment, or final order.... \$1.25

In case the action does not proceed to judgment or final order, the fees heretofore or that may hereafter be payable, but not exceeding in the whole the said sum.

For issuing writ of execution, warrant of attachment or warrant for arrest of delinquent and entering the return thereto..... \$0.50

To the bailiff for all services rendered by him as such bailiff in serving the summons and making his return thereof to the clerk of the court or any other service that may be necessary before judgment is entered by the clerk or pronounced by the judge, mileage excepted..... .50

For enforcing writ of execution, schedule of property seized or attached, bond where necessary acts done by him after seizure, mileage excepted, if money made or case settled after levy..... 1.00

Necessary disbursements incurred in the care and removal of property shall be allowed, to be first allowed by the clerk subject to the approval of the judge. R.S.O. 1927, c. 95, s. 42.

By whom fees to be paid in first instance.

**43.**—(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on whose behalf the proceeding is taken.

How enforced.

(2) If the fees are not so paid, payment may be, by summary order of the judge, be enforced by execution in like manner as a judgment of the court. R.S.O. 1927, c. 95, s. 43.

Bailiff's fees to be paid to clerk when execution issues.

**44.** At the time of the issue of any process or execution the bailiff's fees thereon shall be paid to the clerk and shall be paid over to the bailiff, upon the return of the execution, and not before; but if the bailiff does not become entitled to any part, or becomes entitled to a part only of such fees, the whole or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. R.S.O. 1927, c. 95, s. 44.

Bailiff to forfeit fees if he neglects to return process.

**45.** If the bailiff neglects to return any process or execution within the time required by law he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall



be held to have been received by the clerk, who shall keep a special account thereof, and account for and pay over the same to the clerk of the peace, to be paid to the Treasurer of Ontario, to form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 95, s. 45.

**46.** A clerk or bailiff shall not directly or indirectly take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim which has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. R.S.O. 1927, c. 95, s. 46.

Clerk or bailiff not to accept extra fees.

#### INSPECTION.

**47.—(1)** It shall be the duty of the Inspector,—

Appointment of Inspector.

Duties.

(a) to make a personal inspection of every division court and of the books and papers thereof;

Inspection of offices.

(b) to see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a correct manner, at suitable time and in proper form and order, and that the papers and documents are properly classified and preserved;

Books, etc.

(c) to see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk;

Officers' duties.

(d) to see that lawful fees only are taxed or allowed as costs;

Lawful fees.

(e) to see that proper security is furnished and maintained on behalf of every clerk and bailiff;

Security by clerks and bailiffs.

(f) when authorized by the Lieutenant-Governor in Council so to do, to direct that any papers or documents which it is unnecessary to preserve be destroyed;

Destruction of useless papers.

(g) to report upon all such matters to the Lieutenant-Governor. R.S.O. 1927, c. 95, s. 47 (1); 1937, c. 20, s. 3.

Report to Lieutenant-Governor.

(2) The Inspector, with the approval of the Lieutenant-Governor in Council may delegate to any clerk or officer in his office any power or duty conferred or imposed upon the

Delegation of authority by inspector.

Inspector under this Act, and for such purpose every such person shall have and may exercise all the powers of the Inspector. R.S.O. 1927, c. 95, s. 47 (2).

Power of  
inspector in  
making  
inquiry into  
conduct of  
officers.

**48.** Where the Inspector considers it expedient to institute an inquiry into the conduct of a clerk or bailiff he may require him and any other person to give evidence on oath, and for that purpose shall have the same power as any court has in civil cases to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. R.S.O. 1927, c. 95, s. 48.

Books, etc.,  
to be  
produced for  
inspection.

**49.** Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector shall require. R.S.O. 1927, c. 95, s. 49.

Officers to  
inform  
Inspector of  
their ap-  
pointment,  
etc.

**50.** Every clerk and bailiff, within five days after his appointment, shall inform the Inspector of his appointment, of his full name and post office address. R.S.O. 1927, c. 95, s. 50.

Clerk to  
make returns  
to Lieuten-  
ant-  
Governor.

**51.** Every clerk shall, on or before the 15th day of January in each year, make a return, in such form and manner as the Lieutenant-Governor in Council shall prescribe, of the business of his office for the year which ended on the 31st day of December next preceding. R.S.O. 1927, c. 96, s. 51.

Clerks' and  
bailiff's  
returns to  
Inspector.

**52.** Every clerk and bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and shall on the 15th day of January, in every year, make a return under oath to the Inspector, showing the aggregate amount of fees, charges and emoluments which he became entitled to receive during the year which ended on the 31st day of December next preceding. R.S.O. 1927, c. 95, s. 52.

#### JURISDICTION.

Cases in  
which court  
has no  
jurisdiction.

**53.** The court shall not have jurisdiction in

- (a) an action for the recovery of land, or an action in which the right or title to any corporeal or incorporeal hereditaments, or any toll, custom or franchise comes in question;

- (b) an action in which the validity of any device, bequest, or limitation under any will or settlement is disputed;
- (c) an action for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage;
- (d) an action against the justice of the peace for anything done by him in the execution of his office, if he objects thereto;
- (e) an action upon a judgment, or order of the Supreme Court or a county court where execution may issue, upon or in respect thereof. R.S.O. 1927, c. 95, s. 53.

54.—(1) Save as otherwise provided by this Act the court shall have jurisdiction in,— Cases in which court has jurisdiction.

- (a) a personal action where the amount claimed does not exceed \$120;
- (b) a personal action if all the parties thereto consent in writing, and the amount claimed does not exceed \$200;
- (c) an action on a claim or demand of debt, account, or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$200; provided that in the case of an unsettled account the whole account does not exceed \$1,000;
- (d) an action for the recovery of a debt or money demand, where the amount claimed, exclusive of interest, whether the interest is payable by contract or as damages, does not exceed \$400 and the amount claimed is,—
  - (i) ascertained by the signature of the defendant or of the person whom as executor, or administrator he represents; or
  - (ii) the balance of an amount not exceeding \$400 which amount is so ascertained; or
  - (iii) the balance of an amount so ascertained which did not exceed \$800, and the plaintiff abandons the excess over \$400; but

an amount shall not be deemed to be so ascertained where it is necessary for the plaintiff to give other and extrinsic evidence beyond the production of a document and proof of the signature to it; and the jurisdiction conferred by this clause shall apply to claims and proceedings against an absconding debtor;

- (e) an action or contestation for the determination of the right of a creditor to rank upon an insolvent estate where the claim of the creditor does not exceed \$120.

Combining  
causes of  
action.

(2) Claims combining,—

- (a) causes of action in respect of which the jurisdiction is by subsection 1 limited to \$120 hereinafter referred to as class (a);
- (b) causes of action in respect of which the jurisdiction is by subsection 1 limited to \$200 hereinafter referred to as class (b);
- (c) causes of action in respect of which the jurisdiction is by subsection 1 limited to \$400 hereinafter referred to as class (c);

may be joined in one action; provided that the whole amount claimed in respect of class (a) does not exceed \$120; and that the whole amount claimed in respect of classes (a) and (b) combined, or in respect of class (b) where no claim is made in respect of class (a) does not exceed \$200, and that the whole amount claimed in respect of classes (a), and (c) or (b) and (c) combined, does not exceed \$400, and that in respect of classes (b) and (c) combined the whole amount claimed in respect of class (b) does not exceed \$200.

Separate  
findings on  
combined  
claims.

- (3) The findings of the court upon the claims so joined shall be separate.

Replevin.

- (4) Where the value of property distrained, taken or detained does not exceed \$120, and the title to the land is not brought into question, an action of replevin may be brought in the court for the division within which the defendant or one of the defendants resides or carries on business, or where the property was distrained, taken or detained and *The Replevin Act* shall *mutatis mutandis* apply to such action.

Rev. Stat.,  
c. 111.

Actions  
between  
teachers and  
school  
boards.  
Rev. Stat.,  
cc. 360, 357,  
362.

- (5) The court shall also have jurisdiction in actions between teachers and school boards as provided by *The High Schools Act*, *The Public Schools Act*, and *The Separate Schools Act*. R.S.O. 1927, c. 95, s. 54.



(NOTE—Section 4 of *The Division Courts Amendment Act, 1937*, is to come into force on a day to be named by the Lieutenant-Governor by his Proclamation. At the date of the publication of the Revised Statutes the section had not been proclaimed.)

**55.** Except in actions in which a jury is demanded, as Judge to try. hereinafter provided, the judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R.S.O. 1927, c. 95, s. 55.

**56.** Upon a contract for the payment of a sum certain Judge may order payment in money, although contract not for payment in money. in labour or in any kind of goods or commodities or in any other manner than in money, the judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. R.S.O. 1927, c. 95, s. 56.

**57.**—(1) The court in actions otherwise within its jurisdiction shall have power to grant relief, redress, or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the Supreme Court. Powers of courts.

(2) Nothing in this section shall confer jurisdiction to grant an injunction. R.S.O. 1927, c. 95, s. 57. Courts not to grant injunctions.

**58.** A minor may sue for any sum not exceeding \$100 Minors may sue for wages. due to him for wages, or for work or services, as if he were of full age. R.S.O. 1927, c. 95, s. 58.

**59.**—(1) A cause of action shall not be divided into two or more actions for the purpose of bringing the same within the jurisdiction of the court. Causes of action not to be divided.

(2) Where a sum for principal, and also a sum for interest, is due and payable to the same person upon a mortgage, bill, note, bond, or other instrument, he may notwithstanding anything in this section contained, but subject to the other provisions of this Act, sue separately for every sum so due. R.S.O. 1927, c. 95, s. 59. Principal and interest may be sued for separately.

**60.** A judgment in an action brought for the balance of an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of the Judgment to be full discharge.

court, shall be a full discharge of all demands in respect of the account for the balance of which such action was brought or for the whole claim, as the case may be. R.S.O. 1927, c. 95, s. 60.

Transfer of  
actions to  
Supreme  
Court.

**61.**—(1) Where it appears at any stage of an action otherwise of the proper competence of the court that the court has not cognizance thereof on account of the title to land or any corporeal or incorporeal hereditament, or any toll, custom or franchise coming in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, or the amount involved is in excess of the jurisdiction of the court, the action shall not on that account be dismissed, but a judge of the Supreme Court, or the judge of the court in which the action is pending, may order the same to be transferred to the Supreme Court or to a county court where the county court would have jurisdiction, upon such terms as to the payment of costs or otherwise as he may think fit, and thereafter the action shall proceed in the Supreme Court or the county court as if originally commenced therein, and as if the defendant had entered an appearance; but the judge may give such directions as to procedure as may be deemed proper. R.S.O. 1927, c. 95, s. 61 (1); 1937, c. 20, s. 5.

Appeal from  
order.

(2) Where the order is made by a judge of the division court an appeal shall lie therefrom to a judge of the Supreme Court in chambers who may rescind the order or vary the terms thereof. R.S.O. 1927, c. 95, s. 61 (2).

Action may  
be removed  
into Supreme  
Court in  
certain cases.

**62.** If it appears to a judge of the Supreme Court that an action is a fit one to be tried in the Supreme Court, he may order that it be transferred to the Supreme Court upon such terms, as to payment of costs or otherwise, as he may think fit. R.S.O. 1927, c. 95, s. 62.

Counter-  
claim involv-  
ing matters  
beyond  
jurisdiction.

**63.**—(1) When a counterclaim is disputed and involves matters beyond the jurisdiction of the division court the judge may try the claim and may, if he sees fit, stay the issue of execution upon the judgment until the counterclaim has been disposed of upon such terms as to security and otherwise as he sees fit to impose.

Set-off  
of counter-  
claim when  
admitted.

(2) If the counterclaim or any part thereof is admitted the judge may direct the amount admitted to be set off *pro tanto* without prejudice to any proceedings to recover the balance. R.S.O. 1927, c. 95, s. 63.

PROCESS AND PROCEDURE.

*Division in which action to be entered.*

**64.**—(1) An action may be entered and tried,—

In what court actions may be entered and tried.

(a) in the court for the division in which the cause of action arose or in which the defendant, or any one of several defendants, resides or carries on business at the time the action is brought; or

(b) in the court the place of sitting whereof is the nearest to the residence of the defendant.

Provided, that any action for wages of a woodman may be entered and tried in the court holden for the division in which the contract of hiring was made, notwithstanding any stipulation in the contract of employment or otherwise. In this section “woodman” shall mean a person performing labour or services in connection with any logs or timber and shall include cooks, blacksmiths, artisans and all others usually employed in connection with such labour or services.

Place of trial in action for wages of woodman.

Interpretation of “woodman”.

(2) In the cases provided for by clause *b* of subsection 1 and by subsection 2 of section 72, the summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor, and all other process and proceedings to enforce payment of the judgment, may be issued to the bailiff of such court, and be executed and enforced by him in the county in which the debtor resides, as well as in the county in which the judgment was recovered. R.S.O. 1927, c. 95, s. 64.

Service of summons in such cases.

Execution.

**65.** If a person desires to bring an action in the court of a division other than as in section 64 mentioned, the judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the judge granting the order or in an adjoining county. R.S.O. 1927, c. 95, s. 65.

When actions may be brought in other than the regular divisions.

**66.** No proviso, condition, stipulation, agreement or statement which provides for the place of trial of an action, matter or proceeding shall be of any force or effect where the defendant, within the time limited for disputing the plaintiff’s claim or within such further time as the judge shall

Effect of agreement as to place of trial.

allow, files with the clerk of the court in which the action was commenced a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, and the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. R.S.O. 1927, c. 95, s. 66.

Actions  
when defend-  
ant resides  
out of the  
Province.

**67.**—(1) Where a claim is within the proper competence of a division court, the action may be brought, notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of action arose or partly arose, but the court may refuse to allow the action to proceed if it appears that the action is one which ought to be tried elsewhere.

Service of  
summons on  
non-  
residents.

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who may, either before or after the service, be approved by the judge or by the clerk, but such summons shall be served at least fifteen days before the return day thereof.

Proof of  
service.

Rev. Stat.,  
c. 119.

(3) The affidavit of service, if not made in Ontario, may be sworn before any officer or person having authority to administer oaths under *The Evidence Act*.

Allowance  
for service  
out of  
Ontario.

(4) Where service of the summons has been effected out of Ontario, the judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole \$5. R.S.O. 1927, c. 95, s. 67.

Where de-  
fendant a  
corporation  
with head  
office out of  
Ontario.

**68.** Where the defendant is a corporation not having its head office in Ontario, and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R.S.O. 1927, c. 95, s. 68.

Place of trial  
where  
amount sued  
for exceeds  
\$100.

**69.**—(1) Where the debt or money payable exceeds \$100 and is made payable by the contract of the parties at a place named therein, the action may be brought thereon in the court of the division in which the place of payment is situate, subject, however, to the action being transferred to the court of any division in which but for this section it might have been brought.

Changing  
place of trial  
in such cases.

(2) The judge of the court in which the action is brought may, upon application of the defendant made within the time limited for disputing the plaintiff's claim make an order transferring the action accordingly.



(3) The application shall be supported by an affidavit of the applicant or his agent stating that the applicant intends to defend the action, that there is a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, that the witnesses for the defence, or some of them, reside within the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay, and the dates of the next two sittings of the court to which it is sought to have the action transferred shall also be shown.

Affidavit in support of application.

(4) The order shall direct at what sittings of the court the action shall be tried, subject to all rights of postponement as in other cases, and shall be attached by the clerk to the summons and other proceedings in the action, and he shall forthwith transmit them to the clerk of the court to which the action is transferred, and enter a minute thereof in his procedure book.

Order and papers to be transmitted to clerk.

(5) Upon receipt of the order and other papers by the clerk of such last mentioned court, he shall enter the action and proceedings in his procedure book.

To be entered in procedure book.

(6) All the papers and proceedings in the action there- after shall be intituled and carried on as though the action had originally been entered in the last mentioned court.

Style.

(7) The defendant shall forthwith serve a copy of the order upon the plaintiff or his agent. R.S.O. 1927, c. 95, s. 69.

Service of order.

#### *Notice Where Jurisdiction Disputed.*

**70.** Where a defendant, or a garnishee intends to contest the territorial jurisdiction of the court, he shall leave with the clerk, within eight days after the day of service of the summons on him (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen or more days before the return), a notice in writing that he disputes the jurisdiction of the court, and the clerk shall forthwith give notice thereof to the plaintiff, or his agent in the same way as notice of defence is given, and in default of such notice, the jurisdiction shall be considered as established and determined, and all proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. R.S.O. 1927, c. 95, s. 70.

Notice where jurisdiction of court disputed to be given.

When action  
entered in  
wrong court.

**71.**—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction, but, on such terms as the judge shall order, all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last mentioned court.

Clerk to  
place on list  
and notify  
parties.

(2) The clerk of the court, to which the proceedings have been transferred, shall place the action on the list for trial at the next sittings of his court which commences six clear days or more after he receives the papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered post of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. R.S.O. 1927, c. 95, s. 71.

Actions by  
and against  
clerks and  
bailiffs.

**72.**—(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

Idem.

(2) A clerk or bailiff shall sue or be sued separately or jointly with another person in the court of any next adjoining division whether in the same or another county.

Commenced  
before  
appoint-  
ment.

(3) Nothing in this section shall prevent proceedings from being continued in the court in which the action was brought, where it was commenced before the appointment of such clerk or bailiff. R.S.O. 1927, c. 95, s. 72.

Action by or  
against  
judge.

**73.** An action by or against a judge may be brought in any court of a county adjoining that in which he resides. R.S.O. 1927, c. 95, s. 73.

Notices to  
be in writing.

**74.** Unless otherwise provided, every notice required by this Act shall be in writing. R.S.O. 1927, c. 95, s. 74.

### *Entry of Claim, Service, etc.*

Entry of  
claim with  
clerk.

**75.**—(1) The plaintiff shall enter his claim with the clerk and at the same time shall deliver to him a copy (and if necessary, copies) of his account, claim or demand in writing in detail (and in case of tort, particulars of his demand) and each claim shall be numbered according to the order in which it is entered, and a summons in the prescribed

form shall be issued, bearing the number of the claim on the margin thereof, and on the trial no evidence shall be given of any cause of action except such as is contained in the claim so entered.

(2) In an action on a promissory note, bill of exchange or cheque, the same shall be filed with the clerk before judgment, unless otherwise ordered, or unless it be shown that the note, bill or cheque is lost, or that it cannot for some other reason be produced. R.S.O. 1927, c. 95, s. 75.

Promissory  
note, etc.,  
to be filed  
before  
judgment.

**76.** The clerk shall annex the plaintiff's account or particulars to the summons, and shall deliver copies of the summons and account or particulars to the proper person to serve the same. R.S.O. 1927, c. 95, s. 76.

What to  
accompany  
summons.

**77.** The summons, with a copy of the account or particulars attached, shall be served ten days at least before the return day thereof, and, where a defendant resides out of the county in which the action is brought, fifteen days at least before the return day thereof. R.S.O. 1927, c. 95, s. 77.

Service of  
summons.

**78.** There shall be endorsed upon the summons a notice informing the defendant that any application to change the place of trial must be made within the time limited for disputing the plaintiff's claim. R.S.O. 1927, c. 95, s. 78.

Endorse-  
ment upon  
summons.

**79.** Where the amount of the claim exceeds \$30 the service shall be personal, and where the amount does not exceed \$30 the service may be on the defendant, his wife or servant, or on a grown up inmate of the defendant's dwelling-house or usual place of abode or business. R.S.O. 1927, c. 95, s. 79.

When service  
to be per-  
sonal or  
otherwise.

### *General Provisions.*

**80.** The judge may make an order for substantial service or for service by advertisement or otherwise. R.S.O. 1927, c. 95, s. 80.

Substitu-  
tional  
service.

**81.—(1)** Every summons or process against a corporation, firm or individual whose chief place of business is not within Ontario, and all subsequent papers and proceedings in the action, may be served on the agent of the corporation, firm or individual whose office or place of business as such agent is either within the division from the court of which the summons or process issued, or is nearest thereto.

Service on  
corporations.

(2) For the purpose of this section the word "agent" shall include,

Interpreta-  
tion  
"Agent."

- (a) in the case of a railway company, a station-master having charge of a station of the company;
  - (b) in the case of a telegraph company, a person having charge of a telegraph office of the company; and
  - (c) in the case of an express company, a person having charge of an express office of the company.
- R.S.O. 1927, c. 95, s. 81.

Postage.

**82.** The postage on papers required to be served out of the division, and sent by mail for service shall be costs in the cause. R.S.O. 1927, c. 95, s. 82.

Bailiff *pro tempore*.

**83.**—(1) Where there is no bailiff or the bailiff is under suspension, the judge may appoint a bailiff *pro tempore* to perform,—

- (a) all the duties of bailiff; or
- (b) any particular duty.

Clerk may act as bailiff.

(2) The clerk may also exercise the powers conferred by clause *b*.

Duties of bailiff *pro tempore*.

(3) The person appointed under clause *a* of subsection 1 shall perform all the duties required to be performed by a bailiff. R.S.O. 1927, c. 95, s. 83.

Clerk to prepare affidavits of service, etc.

**84.** The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how the same was served, the day of service and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or indorsed on the summons and shall be sworn to by the bailiff; but the judge may require the bailiff to be sworn in his presence, and to answer such questions as may be put to him touching any service or mileage. R.S.O. 1927, c. 95, s. 84.

#### *Partners.*

One or more of persons jointly liable may be sued.

**85.**—(1) In case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have been sued or served without pre-



judice to the right of the person against whom execution issues to demand contribution from any other person jointly liable with him.

(2) Where a judgment has been obtained against one or more of several partners under the provisions of subsection 1, and the judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm, as well as that of any defendant who has been served.

Bailiff may seize property of firm on certificate of judge.

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time of the accruing of the cause of action.

Services on parties added.

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at the principal place within Ontario of the business of the partnership or upon any person having control of the partnership business there and, subject to the provisions of subsections 6 and 7, such service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served.

Partners sued in name of firm.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names and addresses of the persons who are co-partners in any firm which is a party to the action by the firm name, to be furnished in such manner as the judge may direct.

Order to furnish names and addresses.

(6) In the case of a partnership which to the knowledge of the plaintiff has been dissolved before action the summons shall be served upon every person within Ontario sought to be made liable.

When partnership dissolved.

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and in default of such notice the person served shall be deemed to be served as a partner.

Notice of capacity in which person served.

(8) Debts owing from a firm carrying on business within Ontario may be attached under section 138, although one or more members of the firm may be resident out of Ontario, provided that some person having the control or management of the partnership business or a member of the firm within

Attachment of debts due by firm.

Ontario is served with the attaching order. R.S.O. 1927, c. 95, s. 85.

Execution  
against  
partners.

**86.**—(1) Where a judgment is against a firm, subject to the provisions of section 87, execution may issue against the property of,—

- (a) the partnership;
- (b) any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;
- (c) any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence.

Leave to  
issue execu-  
tion against  
other  
members.

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined in such manner as he may direct. R.S.O. 1927, c. 95, s. 86.

Effect of  
judgment  
against firm.

**87.** Except as against the property of the partnership, a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of Ontario when the summons was issued, and who has not entered a defence to the action, unless he has been made a party under section 89 or has been served within Ontario after the summons was issued. R.S.O. 1927, c. 95, s. 87.

Persons  
carrying on  
business in  
Ontario  
under an-  
other name.

**88.**—(1) A person, whether or not a British subject, and whether residing in or out of Ontario, carrying on business within Ontario under a name or style other than his own name, may be sued in such name or style.

Leave to  
issue not  
required.

(2) Leave shall not be necessary to issue the summons.

Service of  
summons.

(3) The summons may be served upon the person so carrying on business if he be within Ontario, or at his place of business within Ontario, or, if there are several such places at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service shall be equivalent to personal service on the person so sued.

Notice of  
character in  
which person  
served.

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as

the person having the control or management of it or in both characters, and in default of such notice he shall be deemed to be served as the person carrying on the business.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person, who, at the time of the accruing of the cause of action, was carrying on business under such name or style to be furnished in such manner as the judge may direct.

Procuring name and address of person carrying on business.

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in such name or style.

Person served to appear in his own name.

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence shall not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued.

Defence under protest.

(8) Where a summons is served under subsection 3 on a person having the control or management of but not carrying on the business, a dispute by him shall not be necessary.

When person served is not carrying on the business.

(9) A judgment or order in the action may be enforced by execution against,—

Enforcement of judgment, what property exigible.

(a) the property of the person so sued, used or employed in or in connection with the business; and

(b) the property within Ontario of the person so sued if he has entered a defence in the action, or has been adjudged to be the person carrying on the business or has been personally served with the summons within Ontario and has failed to enter a defence.

(10) If the person so sued has not entered a dispute or has not been personally served, or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person within Ontario whom the plaintiff alleges to be the person carrying on the business, and the judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined in such manner as the judge may direct.

Issuing execution against person alleged to be carrying on the business.

*Adding Parties.*

Striking out  
and adding  
parties.

**89.**—(1) The judge may at any stage of the proceedings upon such terms as may appear to him to be just, order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out, and that any person who ought to have been joined or whose presence is necessary in order to enable the judge effectually and completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant, or garnishee.

Substituting  
or adding  
plaintiff.

(2) Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he may deem just.

Consent of  
party added  
required.

(3) No person shall be added or substituted as a plaintiff or as a next friend, unless his own consent in writing thereto be filed.

Service on  
parties  
added.

(4) A person who is added as a defendant or garnishee, shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have commenced from the date of the order making him a party; but if the application to add any person as a party defendant or garnishee be made at the trial, the judge may make the order in a summary manner upon such terms as to him may seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. R.S.O. 1927, c. 95, s. 89.

*Judgment by Default where Summons Specially Endorsed.*

In proceed-  
ings by  
special sum-  
mons final  
judgment  
entered by  
the clerk  
when claim  
in whole or  
in part not  
disputed, etc.

**90.**—(1) In actions for the recovery of a debt or money demand, where the particulars of claim, with reasonable certainty and detail, are endorsed on or attached to the summons, hereinafter called a special summons, and a copy of the summons and particulars, with a notice in the prescribed form, annexed to or endorsed on such copy has been duly served, then, unless the defendant has left with the clerk within eight days after the day of service (where the service is required to be ten days before the return), or within



twelve days after the day of service (where the service is required to be fifteen days before the return), a notice to the effect that he disputes the claim, or some part, and how much thereof, final judgment may be entered by the clerk on the return of the summons, or at any time within one month therefrom, or, by the order of the judge, at any time thereafter for the amount claimed in the particulars, or so much thereof as has not been disputed, and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim.

(2) The judgment shall be in the prescribed form, but shall not be entered until the special summons and particulars with an affidavit of the due service of both have been filed. Summons, particulars and affidavit to be filed.

(3) The judge may set aside such judgment and permit the case to be tried, on such terms as to him may seem just. Judge may set aside judgment.  
R.S.O. 1927, c. 95, s. 90.

**91.** Where proof is made by affidavit or otherwise of the service of a special summons, and of the particulars of the plaintiff's claim as required by section 92, and judgment has not been entered under the provisions of the said section, the judge may, if the defendant does not in person or by agent appear in open court, as required by the summons, give judgment against him by default, without requiring proof of the plaintiff's claim. R.S.O. 1927, c. 95, s. 91. Judgment by default under s. 92, where final judgment not entered.

**92.—**(1) In any action commenced by special summons for the recovery of a debt or money demand of \$25 or upwards, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the special summons, or at any subsequent time, serve the defendant with a notice of motion and copy of the affidavit, returnable not less than four clear days after service, to show cause before the judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs. Motion for judgment.

(2) The judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his agent by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits, or discloses

such facts as may be deemed sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

How defendant may show cause.

(3) The defendant may show cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim, and the judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

Partial defence.

Judgment for part.

(4) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff shall be entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the judge may seem just, and the defendant may be allowed to defend as to the residue of the claim.

Where one defendant has good defence.

(5) If it appears to the judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

Terms upon giving leave to defend.

(6) Leave to defend may be given unconditionally, or subject to such terms as to giving security or otherwise, as to the judge may seem just.

Setting aside or varying order.

(7) Within seven days after making the order, and upon good grounds being shown, the judge may set aside or vary the order upon such terms as to him may seem just. R.S.O. 1927, c. 95, s. 92.

Leave to dispute claim before judgment.

**93.** At any time before judgment is entered although the time for giving the notice disputing the plaintiff's claim has expired, the judge, on sufficient grounds shown, and on such terms as to him may seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with

the clerk, and also delivered to the plaintiff or sent to him by registered post. R.S.O. 1927, c. 95, s. 93.

\* **94.** A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings at which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered post, and thereupon the plaintiff shall be entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. R.S.O. 1927, c. 95, s. 94. Withdrawal  
of defence.

**95.** Where a defendant or garnishee has given the clerk notice that he disputes the claim, or any other notice of which the plaintiff should be informed before the trial, or where it becomes the duty of the clerk to give notice to any party to an action of any defence, admission, judge's order or other matter of which he should be notified before the trial, the notice shall state the place and time of the sittings of the court at which the action is to be tried. R.S.O. 1927, c. 95, s. 95. Requisites  
of notices.

**96.** The judge may at any time, and on such terms as to costs and otherwise as to him may seem just, amend any defect or error in any proceeding, and all such amendments may be made as may be necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. R.S.O. 1927, c. 95, s. 96. Power to  
amend pro-  
ceedings.

### *Trial.*

**97.** Where a trial is to be had the defendant shall on the day named in the summons, either personally or by agent, appear in the court to answer, and, on answer being made, the judge shall without further pleading or formal joinder of issue, proceed in a summary way, to try the action and give judgment, and if satisfactory proof is not given entitling either party to judgment, he may nonsuit the plaintiff. R.S.O. 1927, c. 95, s. 97. Judge may  
summarily  
dispose of  
action or  
non-suit  
plaintiff.

**98.**—(1) The clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list and the judge shall in such cases, unless an agreement not to appeal has been signed and filed as provided by section 99, take down the evidence in writing or cause the same Order in  
which  
actions over  
\$100 to be  
tried.  
  
Evidence.

Rev. Stat.,  
c. 102.

to be taken down in shorthand by a shorthand writer appointed under section 17 of *The County Judges Act*, or by some other competent person.

Evidence  
taken down  
by judge.

(2) Where the evidence is taken down by the judge in writing it shall be left with the clerk and in the event of an application for a new trial it shall be forwarded to the judge by the clerk for the purposes of the application.

Shorthand  
writer's  
notes.

(3) Where the evidence is taken down in shorthand it shall not be necessary for the shorthand writer to extend or transcribe his notes except in the case of an appeal or an application for a new trial.

Fees and  
expenses.  
Rev. Stat.,  
c. 102.

(4) The fees and expenses of a shorthand writer appointed under section 17 of *The County Judges Act* attending for the purpose of taking down the evidence as provided in subsection 1, shall be borne and paid in the same manner as the fees and expenses of a shorthand writer attending a sittings of a county or district court. R.S.O. 1927, c. 95, s. 98.

Parties may  
agree not to  
appeal.

**99.** An appeal shall not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties, or their agents, and the judge shall note in his minutes whether such agreement was so filed or not, and the minutes shall be conclusive evidence upon that point. R.S.O. 1927, c. 95, s. 99.

Proceedings  
in case de-  
fendant does  
not appear.

**100.** If on the day named in the summons the defendant does not appear, or sufficiently excuse his absence, or if he neglects to answer, the judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the judge may, in his discretion, give judgment without further proof. R.S.O. 1927, c. 95, s. 100.

Judge may  
adjourn  
hearing of  
cause.

**101.** The judge may adjourn the trial of an action, whether it is being tried with or without a jury, to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause which the judge thinks reasonable, upon such conditions as to payment of costs and admission of evidence, or otherwise, as to him may seem just. R.S.O. 1927, c. 95, s. 101.



**102.** A barrister or solicitor or any other person not prohibited by the judge, may appear at the trial or hearing of an action as agent for any party thereto. R.S.O. 1927, c. 95, s. 102.

Who may act as agents at trial.

*Tender and Payment of Money into Court.*

**103.—**(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim he may do so on filing his defence with the clerk at least six days before the day appointed for the trial, and at the same time paying into court the amount mentioned in the defence, and notice of the defence and payment shall be forthwith sent by the clerk to the plaintiff by registered post, or delivered at his usual place of abode or business.

Plea of tender with payment of money into court.

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim and all proceedings in the action shall be stayed unless, within three days after the receipt of notice of the payment, he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed.

Amount tendered to be accepted unless plaintiff gives notice.

(3) If the plaintiff does not give the notice mentioned in subsection 2, the money shall be paid to him less \$1 to be paid over to the defendant for his trouble.

When plaintiff does not give notice.

(4) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the said three days on such terms as to him may seem just.

Giving of notice after time limited.

(5) If after tender and payment into court the plaintiff proceeds with the action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment; but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. R.S.O. 1927, c. 95, s. 103.

Rule as to costs where plaintiff proceeds for balance.

**104.—**(1) The defendant may, not less than six days before the day appointed for the trial, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment.

Defendant may pay money into court.

Clerk to give notice of payment to plaintiff.

(2) The clerk shall forthwith deliver or send notice of such payment by registered post to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within three days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed.

Notice to be given after three days.

(3) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the said three days on such terms as to him may seem just.

Plaintiff to pay defendant's costs if no further sum recovered.

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by the court to be paid. R.S.O. 1927, c. 95, s. 104.

### *Set-Off and Statutory Defences.*

Defendant to give notice of set-off or other statutory defence.

Rev. Stat., c. 118.

**105.**—(1) Where the defendant desires to avail himself of the laws of set-off, or of *The Limitations Act* or of a defence under any other statute, he shall, not less than six days before the trial, give notice thereof to the plaintiff, or leave the same for him at his usual place of abode or business if within the division, or if the plaintiff lives without the division, shall deliver the same to the clerk, and in case of a set-off the particulars thereof shall be delivered to the clerk and shall accompany the notice to be given to the plaintiff.

Evidence of set-off.

(2) Except by leave of the judge no evidence of set-off shall be given by the defendant save such as is contained in the particulars delivered.

Provisions if set-off exceeds amount due to plaintiff.

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess be an amount within the jurisdiction of the court; but if the excess be an amount beyond the jurisdiction of the court, the judge may order that an amount of the set-off equal to the amount found to be due to the plaintiff be satisfied by the claim, but the adjudication shall not be a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R.S.O. 1927, c. 95, s. 105.

## WITNESSES AND EVIDENCE.

*Subpoenas.*

**106.** A party may obtain from the clerk of any division court in the county a subpoena with or without the clause for the production of books, papers and documents, requiring any witness, resident within Ontario or served with the subpoena therein, to attend at a specified court or place before the judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk, when requested by a party or his agent, shall furnish copies of such subpoena. R.S.O. 1927, c. 95, s. 106.

Parties may obtain subpoenas from clerk.

**107.** Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person, personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of such service and of tender or payment of witness fees and mileage, may be received by the judge, either orally or by affidavit. R.S.O. 1927, c. 95, s. 107.

Service of subpoena, by whom made.

**108.**—(1) Every person served with a copy of a subpoena to or for whom at the time of such service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpoena, and every person in court called upon to give evidence who refuses to be sworn or to give evidence, shall be liable to pay such fine not exceeding \$8 as the judge may order, and shall be also liable to imprisonment for any time not exceeding ten days on the order of the judge.

Penalty for disobeying subpoena or refusing to be sworn.

(2) The fine shall be levied and collected with costs, by the same process as a judgment recovered in the court and the whole or any part of the fine, after deducting the costs shall be applicable, in the discretion of the judge, towards indemnifying the party injured by such refusal or neglect, and the remainder shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 95, s. 108.

Enforcing payment of fine.

**109.** A person served with a subpoena, who is resident in Ontario, but not in the county in which the court is situate, shall be entitled to be paid witness fees and mileage according to the county court tariff. R.S.O. 1927, c. 95, s. 109.

Fees to witness out of county.

*Commissions to Take Evidence.*

**110.**—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the judge, upon hearing the parties, may order the issue of

Power to issue commissions to take evidence.

a commission out of and under the seal of the court to a commissioner to take the examination of such person.

When commission to take evidence of applicant, etc., may be granted.

(2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness.

Examination of witnesses whose attendance at trial cannot be obtained.

(3) If it is made to appear to the judge that a material and necessary witness residing in Ontario is sick, aged, or infirm, or that he is about to leave Ontario, and that his attendance as a witness cannot be procured, the judge may make an order appointing a suitable person to take his testimony.

Examination of witness residing at a distance from place of trial.

(4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario, and at a great distance from the place of trial, if it be made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or so great that the party desiring his attendance should not under the circumstances be required to incur the same.

Service of order.

(5) A copy of the order, with two days' notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear, and cross-examine the witness.

Rules made applicable to commissions.

(6) The provisions of the Rules of the Supreme Court, so far as the same are applicable, shall apply to every commission or order issued under the authority of this section.

Costs of commission.

(7) The costs of the issue, transmission, execution and return of any commission issued or order made under the provisions of this section shall be in the discretion of the judge, who may allow a sum in gross therefor, and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner as the ordinary costs of an action. R.S.O. 1927, c. 95, s. 110.

*Books of Account, Affidavits, etc., as Evidence.*

Judge may receive in evidence plaintiff's or defendant's books of account.

**111.** In an action for a debt or money demand of not more than \$25, and in case of a defence of set-off or of payment so far as the same extends to \$25, the judge, on being



satisfied of their general correctness, may receive the plaintiff's, defendant's or garnishee's books as evidence, and may also receive as evidence the affidavit of any party or witness resident out of the county, but may require the party or witness to answer written interrogatories upon oath. R.S.O. 1927, c. 95, s. 111.

**112.**—(1) In any action the judge may in his discretion permit the evidence of any person out of the jurisdiction, or in some remote part of the Province, to be given by affidavit upon such terms as to cross-examination, the answering of written interrogatories upon oath and the production of books and papers for inspection and otherwise as may be deemed necessary.

When evidence may be given by affidavit.

(2) Where in the opinion of the judge expense is unnecessarily incurred by reason of any objection of either party to the reception of affidavit evidence or by cross-examination he may order that party to pay the costs of both parties occasioned by such objection. *See* Con. Rule 269. R.S.O. 1927, c. 95, s. 112.

Costs occasioned by objection to affidavit evidence.

**113.**—(1) Affidavits may be sworn before a clerk or deputy clerk, or before a justice of the peace, notary public or commissioner for taking affidavits.

Before whom affidavits may be sworn.

(2) An affidavit, sworn before the agent of the party on whose behalf it was made, or before the clerk or partner of such agent, shall not be used. R.S.O. 1927, c. 95, s. 113.

Affidavits sworn before agents not to be used.

#### JUDGE'S DECISION.

**114.** The judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision; but if he is not then prepared to pronounce a decision he may postpone it until it is convenient for him to give the same, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered post notify the parties or their agents thereof. R.S.O. 1927, c. 95, s. 114.

Judge may give judgment instant, or postpone judgment.

**115.**—(1) The judge may order the times and the proportions in which any sum and costs recovered by judgment shall be paid, having regard to the provisions of section 117.

Order as to payment.

(2) Unless otherwise ordered, execution shall not issue within fifteen days after the entry of judgment, but the judge may order the amount of the judgment or any installment thereof to be paid into court. R.S.O. 1927, c. 95, s. 115.

Execution not to issue for fifteen days after judgment.

New trial.

**116.**—(1) Upon application made within fourteen days after the trial, or where the decision is not given at the trial after the mailing of the notice of the decision to the party applying, and upon good grounds being shown, the judge may grant a new trial upon such terms as he thinks reasonable, and in the meantime may stay proceedings.

Extending time for application.

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time within fourteen days after the expiration of the first mentioned fourteen days.

Where personal service not effected.

(3) Where the summons has not been personally served the application may be made at any time within fourteen days after the judgment has come to the knowledge of the defendant.

Judgment on application for new trial.

(4) Instead of granting a new trial, the judge may pronounce the judgment which in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly. R.S.O. 1927, c. 95, s. 116.

Execution not to be postponed for more than fifty days.

**117.** Except where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from the service of the summons, without the consent of the party entitled to the same; but if it is proved to the satisfaction of the judge that a party is unable, from sickness or other cause, to pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. R.S.O. 1927, c. 95, s. 117.

#### APPEALS.

Appeals to Court of Appeal.

**118.** Subject to the provisions of section 99 an appeal shall lie to the Court of Appeal from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted,—

- (a) in an action or garnishee proceeding where the sum in dispute exceeds \$100, exclusive of costs;
- (b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$100, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$60;

(c) where the parties consent to an appeal; or

(d) where the effect of the decision is to determine that any general assessment made by a mutual insurance company is invalid; but the company, unless the Court of Appeal otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event. R.S.O. 1927, c. 95, s. 118.

**119.** Where a claim and counterclaim arise out of the same transaction or occurrence and an appeal is brought from the judgment upon either, the judgment upon both shall be subject to review by the court. *See* Con. Rule 116. R.S.O. 1927, c. 95, s. 119.

**120.**—(1) Where an appeal lies, each party shall, before or at the trial, leave with the clerk a memorandum in writing of the name and place of abode of some person resident within the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of abode, shall be sufficient, and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at his office, and the clerk shall forthwith send, by registered post, all papers so served upon him, to the person entitled thereto.

(2) This section shall not apply to a provisional judicial district. R.S.O. 1927, c. 95, s. 120.

**121.** The clerk shall, at the request of the appellant or his agent, certify under his hand to the Registrar of the Supreme Court at Osgoode Hall, Toronto, the summons with all notices indorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the judge's charge as may have been made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, and shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as may be required, and for every copy he shall be entitled to receive five cents for every one hundred words. R.S.O. 1927, c. 95, s. 121.

**122.**—(1) The appeal shall be made in the time and manner prescribed by the rules of court.

Stay of  
proceedings.

(2) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a judge of the Supreme Court. R.S.O. 1927, c. 95, s. 122.

Taxable  
costs on  
appeal.

**123.** The costs taxable, between party and party of and incidental to an appeal shall be the actual disbursements, and no greater amount over and above actual disbursements than \$15, inclusive of counsel fee; the costs of an appeal between solicitor and client, shall be taxable on the county court scale. R.S.O. 1927, c. 95, s. 123.

#### JURIES.

When a  
jury may  
be required.

**124.** Either party may require a jury in any class of action where the amount sought to be recovered exceeds \$50.

Parties to  
give  
notice to  
clerk if they  
require a  
jury.

**125.**—(1) Where the plaintiff requires a jury, he shall give notice thereof to the clerk one week before the sittings of the court at which the action is to be tried, and deposit with him the proper fees for the expenses attending the summoning of the jury; and where a claimant or a defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the clerk the like notice, and deposit with him the proper fees, and thereupon, in either case, a jury shall be summoned.

When  
action has  
been  
transferred.

(2) In an action transferred from one court to another, either party may require a jury to be summoned by giving to the clerk of the court to which the action has been transferred, three clear days before the sittings of the court at which the case is to be tried, a notice requiring a jury to be summoned, and depositing with him the proper fees for the expenses attending the summoning of the jury. R.S.O. 1927, c. 95, s. 125.

Who liable  
to be jurors.  
Rev. Stat.,  
c. 108.

**126.** Unless exempted by *The Jurors' Act*, every person whose name appears on the last revised voters' list of a municipality partly or wholly within the division who resides therein, and whose name is marked 'J,' shall be liable to serve as a juror for the court of such division. R.S.O. 1927, c. 95, s. 126.

From whom  
selected.

**127.**—(1) The jurors shall be residents of the division and shall be selected from the last revised voters' list of the municipalities partly or wholly within the division.

Manner of  
selection.

(2) Where there has been no previous selection of jurors the manner of selecting them shall be as follows:—



(a) the clerk shall begin with the name of the first qualified person on the list of the municipality and proceed with the selection by taking the names in rotation until the requisite number has been selected.

(b) where there are several municipalities the clerk shall begin with the name of the first qualified person on the list of the municipality in which the court is held, taking one name from the list, and then shall take one name from each of the lists of the other municipalities in rotation, beginning with that list which contains the greatest number of names of qualified persons, and shall repeat the same process until the requisite number has been selected.

(3) Where there has been a previous selection of jurors the clerk shall proceed as provided by subsection 2, except that he shall begin where he left off at the next preceding selection, or in the case of a new list as nearly as may be at the place which corresponds with the place where he left off at the previous selection.

Where there has been previous selection of jurors.

(4) If it appears to the judge that the cost of summoning a jury is excessive, by reason of the residences of the persons liable to be selected being in a distant portion of the division, he may direct the clerk to begin with the name of the first qualified person on the list of any municipality partly or wholly within the division, and proceed as in subsection 2.

Where cost of summoning jury is excessive.

(5) Where a municipality, partly or wholly within the division, is a party, and the jury would, if selected in ordinary course, be composed of ratepayers of such municipality, the judge, upon the application of any party, may direct the clerk not to select any juror from the list of such municipality, or may before or at the trial direct that the issues shall be tried and damages be assessed without a jury. R.S.O. 1927, c. 95, s. 127.

When municipality is a party.

**128.** Sections 126 and 127 shall not apply to a provisional judicial district. R.S.O. 1927, c. 95, s. 128.

Case of judicial district.

**129.** Where a jury is required to be summoned, the clerk shall cause not less than twelve of the persons liable to serve as jurors to be summoned, and the summons shall be served at least two days before the court, either personally, or by leaving the same with a grown up person at the residence of the juror, and the summons shall be returned to the clerk

Summoning jurors.

with an affidavit of service of the bailiff serving the same. R.S.O. 1927, c. 95, s. 129.

Parties  
entitled to  
challenge.

**130.** Each party shall be entitled to challenge two jurors peremptorily and any juror for cause. R.S.O. 1927, c. 95, s. 130.

Penalty on  
jurors dis-  
obeying  
summons.

**131.** A juror who, after being duly summoned, wilfully neglects or refuses to attend, shall be liable to a fine, in the discretion of the judge, not exceeding \$4, which shall be levied and collected, with costs, by the same process as a judgment recovered in the court. R.S.O. 1927, c. 95, s. 131.

Judge's list  
and jury  
list.

**132.**—(1) Actions to be heard by the judge alone shall be set down in a list separate from the list of those to be tried by a jury, to be severally called "The Judge's List," and "The Jury List," and actions shall be set down in the order in which they were entered with the clerk.

Jury list to  
be first.

(2) "The Jury List" shall be first disposed of, unless the judge otherwise directs. R.S.O. 1927, c. 95, s. 132.

Five jurors  
to be em-  
panelled,  
etc.

**133.** Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. R.S.O. 1927, c. 95, s. 133.

Verdict to be  
unanimous.

Judge may  
call *tales*.

**134.**—(1) If the panel is exhausted, the judge may direct the clerk to summon, from the body of the court, a sufficient number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, act as a juror.

Judge may  
order jury  
to be em-  
panelled to  
try any  
disputed  
fact.

(2) Where the judge thinks it proper to have the action or any controverted fact tried by a jury, the clerk shall instantly return a jury of five disinterested persons present, to try the same, and the judge may give judgment on the verdict of the jury.

Fee of juror.

(3) Each juror so called and sworn shall be paid the sum of ten cents, and the moneys so paid shall be taxed as costs in the cause. R.S.O. 1927, c. 95, s. 134.

Judge may  
discharge  
jury not  
agreeing, etc.

**135.** If the judge is satisfied that a jury, after having been out a reasonable time, cannot agree upon their verdict, he may discharge them and adjourn the trial, and order the clerk to summon a new jury for the next sittings, unless

the parties consent that the judge may give judgment on the evidence already taken, in which case he may give judgment accordingly. R.S.O. 1927, c. 95, s. 135.

**136.**—(1) In all cases of trial by jury the judge shall have power to determine, after hearing the whole evidence or the evidence adduced on behalf of the plaintiff alone, whether there is any evidence in support of the plaintiff's case which ought to be submitted to the jury, and if in his opinion there is no such evidence, he may then, or after verdict, if he has reserved his decision, direct a nonsuit or dismiss the action. Power to direct nonsuit or dismiss action.

(2) The judge may direct the jury to answer any questions of fact stated to them by him and the jury shall answer them, and, subject to the provisions of subsection 1, upon their answers the judge shall enter such judgment as in his opinion may be proper. Submitting questions to jury.

(3) The judge shall determine the law and direct the jury thereon. Duty of judge.

(4) When in the opinion of the judge the action is one that ought to be tried without a jury, the judge shall have power to direct that the action be taken out of their hands.

(5) Where in the opinion of the judge the jury notice is given for the purpose of delay he may strike it out on a summary application. R.S.O. 1927, c. 95, s. 136.

**137.**—(1) There shall be paid to the clerk, on every action originally entered in his court, in addition to all costs or jury fees payable,— Fees for jury fund.

(a) where the claim exceeds \$20 but does not exceed \$60,—three cents;

(b) where the claim exceeds \$60, but does not exceed \$100,—six cents;

(c) where the claim exceeds \$100,—twenty-five cents;

and the same shall be taxed and allowed as costs in the cause.

(2) On or before the 15th day of January in every year the clerk shall return to the treasurer of the county a statement, under oath, showing the number of actions originally entered in his court during the year previous, in which the claim exceeded \$20 but did not exceed \$60, the number in Return.

which the claim exceeded \$60 but did not exceed \$100, and the number in which the claim exceeded \$100.

Fees to be  
paid to  
county  
treasurer.

(3) The clerk shall, with the statement, pay over to the treasurer the fees payable under this section; and the treasurer shall keep an account of all money so received by him under the head of "Division Court Jury Fund." R.S.O. 1927, c. 95, s. 137 (1-3).

Other cities  
and separate  
towns.

(4) In the case of cities and towns separated from the county, the amounts paid in by the clerks and the amount paid by the county treasurer to the clerks for jury fees shall be taken into account in settling the proportion of the charges to be paid by the city or town towards the cost of administration of justice. R.S.O. 1927, c. 95, s. 137 (5); 1929, c. 30, s. 2 (2).

Fees of  
jurors.

(5) The clerk shall pay each of the five jurors impanelled and sworn the sum of \$3, and the further sum of ten cents per mile for every mile in excess of two miles necessarily travelled from his place of residence to the place at which the court is held, and to each of the jurors not impanelled, but who attend during the sittings of the court in which they have been summoned and who do not attend as witnesses or litigants, the sum of \$1.50, and the further sum of ten cents per mile in excess of two miles necessarily travelled from his place of residence, but the judge shall have the power to increase or reduce the fee for the jurors not impanelled.

Certifying  
payment of  
jurors and  
refund to  
clerk.

(6) Payments made under subsection 5 shall be certified to by the judge and the treasurer of the county shall, upon presentation of the certificate, pay to the clerk the amount which the certificate shows to have been paid to the jurors.

Provisional  
judicial  
district.

(7) This section shall not apply to a provisional judicial district. R.S.O. 1927, c. 95, s. 137 (6-8).

#### PROCEEDINGS TO GARNISH DEBTS.

Garnishment  
of debts.

Rev. Stat.,  
c. 196.

**138.** Subject to the provisions of sections 7 and 8 of *The Wages Act*, where a debt or money demand of the proper competence of the division court, and not being a claim for damages, is due and owing to one party from another, or a judgment of a division court remains unsatisfied, in whole or in part, and a debt is owing or accruing to the debtor from any other person, the person to whom such first mentioned debt, money demand, or judgment is due and owing (here-



inafter called the primary creditor), may attach and recover the debt owing or accruing to his debtor (hereinafter called the primary debtor) from any other person (hereinafter called the garnishee), or sufficient thereof to satisfy the claim of the primary creditor, subject always to the rights of other persons in respect of such debt. R.S.O. 1927, c. 95, s. 138; 1936, c. 17, s. 2.

*As to attachment of wages see The Wages Act.*

Rev. Stat.,  
c. 196.

**139.**—(1) In all cases under the provisions of sections 143 and 147, where the debt sought to be garnished is for wages or salary, there shall be filed with the clerk an affidavit showing the residence of the primary debtor and the nature of his occupation in the service of the garnishee at the time of the issuing of the summons (if then in such service), and stating whether the debt alleged or adjudged to be due by the primary debtor to the primary creditor was or was not incurred for board or lodging, and there shall also be endorsed upon or annexed to the summons served on the garnishee a memorandum to the like effect, and in the absence of such affidavit or memorandum the debt may be deemed by the garnishee not to have been incurred for board or lodging.

Memoran-  
dum on  
garnishee  
summons  
where debt  
attached is  
for wages.

(2) If the primary debtor is alleged to be an unmarried person, having no family depending on him for support, a statement to that effect, verified by affidavit, shall be filed with the clerk and the statement shall also be endorsed upon or annexed to the summons served on the garnishee, and in the absence of such affidavit or statement, such person may be deemed by the garnishee to have a family depending on him for support. R.S.O. 1927, c. 95, s. 139.

Material  
where debts  
due by  
unmarried  
persons.

*Where the Primary Creditor's Claim is a Judgment.*

**140.** After judgment has been recovered, application may be made to the judge, on behalf of the primary creditor, on affidavit stating when the judgment was recovered, and how much thereof remains unsatisfied, and that the deponent has reason to believe, and does believe, that some one or more persons (naming them, or stating that he is unable to name them) is or are within Ontario and is or are indebted to the primary debtor, for an order that all debts owing or accruing to the primary debtor be attached to satisfy the judgment, and the order may be made in the prescribed form. R.S.O. 1927, c. 95, s. 140.

Attaching  
order to be  
granted on  
judgment.

**141.**—(1) The service of the order on a garnishee shall have the effect, subject to the rights of other persons, of at-

Effect of  
service  
thereof.

Garnishee  
may pay in  
his own  
discharge.

taching and binding in his hands all debts then owing or accruing from him to the primary debtor, or sufficient thereof to satisfy the claim of the primary creditor, and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied, shall be to that extent a discharge of such debt.

Payment  
out.

(2) Any money paid into court under this section may be paid out of court to the primary creditor upon the order of the judge to be obtained upon notice to the primary debtor. R.S.O. 1927, c. 95, s. 141.

Payment to  
any but  
primary  
creditor  
void.

**142.** Payment by the garnishee after service on him of the order, otherwise than into court, except by leave of the judge, shall, to the extent of the primary creditor's claim and costs, be void, and the garnishee shall be liable to pay the same again, to the extent of the primary creditor's claim, unless the judge otherwise orders. R.S.O. 1927, c. 95, s. 142.

Primary  
creditor may  
summon  
garnishee.

**143.** Whether an attaching order is or is not made, the primary creditor may cause to be issued out of the court of the division in which the garnishee, or one of them, if there be joint garnishees, resides or carries on business, a summons in the prescribed form, upon or annexed to which shall be a memorandum showing the names of the parties as designated in the judgment, the date when, and the court in which, it was recovered, and the amount unsatisfied, and the summons shall be returnable either at any ordinary sittings of the court, or at such other time and place, to be named therein, as the judge may appoint. R.S.O. 1927, c. 95, s. 143.

Mode of  
service.

**144.** A copy of the summons and memorandum shall be served on the garnishee, within the time and in the manner provided for the service of a summons in other actions, and also on the primary debtor, unless the judge otherwise orders. R.S.O. 1927, c. 95, s. 144.

Service on  
corporation,  
whose head  
office is not  
in the  
Province.

**145.** In proceedings under section 143, where the garnishee is a body corporate, not having its chief place of business within Ontario, the summons shall be issued from the court in which the judgment was recovered, or, in case the judgment has been transferred, from the court to which it was transferred, and shall be served upon the agent of the body corporate whose office as such agent is nearest to the place where the court is held. R.S.O. 1927, c. 95, s. 145.

Judgment at  
hearing.

**146.** At the hearing of the summons, on proof of the amount owing or accruing from the garnishee to the primary debtor, and if no sufficient cause appears why it should not

be paid and applied in satisfaction of the judgment, the judge may give judgment against the garnishee in the prescribed form for the amount owing or accruing from him, or sufficient thereof to satisfy the judgment; and execution against the garnishee may issue thereon, if due, or when and as it becomes due, or at such later period as the judge may order. R.S.O. 1927, c. 95, s. 146.

*Where the Primary Creditor's Claim not a Judgment.*

**147.**—(1) Where a judgment has not been recovered for the claim of the primary creditor, he may cause to be issued out of the court of the division in which the garnishees, or one of them if they are joint garnishees, reside or carry on business, a summons (Form 4), with the particulars of the claim of the primary creditor against the primary debtor with reasonable certainty and detail attached thereto or endorsed thereon, and the summons shall be returnable as provided by section 143.

Garnishee  
summons  
before judg-  
ment.

(2) As between the primary creditor and the primary debtor the summons shall be deemed a special summons, and all provisions of this Act applicable to a special summons and proceedings thereon shall apply.

Summons  
to be deem-  
ed special  
summons.

(3) Where several garnishees reside or carry on business in the same division they may, by leave of the judge, be included in the same summons.

Several  
garnishees  
included in  
summons.

(4) A copy of the summons and particulars shall be served on the primary debtor and on the garnishee in the manner provided for the service of a summons in other actions. R.S.O. 1927, c. 95, s. 147.

Service of  
summons.

(5) Where any such summons is issued out of a court other than the court of the division in which the garnishee, or one of the garnishees, if there are joint garnishees, resides or carries on business, such court shall be deemed to have jurisdiction upon the filing of a consent in writing thereto signed by the garnishee or garnishees. 1937, c. 20, s. 6.

Summons to  
garnishee  
residing in  
another  
court  
division.

**148.** Where judgment is obtained against the primary debtor under the provisions of sections 90, 91 or 92, or is obtained at the trial, or where judgment is not then given, on proof of the service on the primary debtor of a copy of the summons and particulars, and of the debt due and owing by the primary debtor, the judge, on proof of the amount owing or accruing due to the primary debtor from the garnishee, may

Judgment  
against  
garnishee.

give judgment against the garnishee in the prescribed form for the amount so owing or accruing from him or sufficient thereof to satisfy the claim of the primary creditor and costs, which sum the garnishee shall pay into court towards the satisfaction of the claim and costs, and, in default, execution may issue therefor, if due, or as it becomes due, or at such later period as the judge may order. R.S.O. 1927, c. 95, s. 148.

*General Provisions.*

All parties interested may show cause.

**149.**—(1) Whether the claim of the primary creditor is or is not a judgment, the garnishee and all other persons in any way interested in or to be affected by the proceeding may show any just cause why the debt sought to be garnished should not be paid to or applied in or towards satisfaction of the claim of the primary creditor.

Setting up defences in garnishee proceedings.

(2) A garnishee who desires to set up a statutory or other defence or set-off or to dispute or admit liability in whole or in part, shall file with the clerk notice thereof with the particulars of such defence or set-off, or an admission of the amount owing or accruing by him, within eight days after service on him of the summons, and the clerk shall forthwith send by registered post to each of the other parties a copy of such defence, set-off or admission, and the primary creditor may file with the clerk a notice that he admits or disputes the defence or set-off or accepts or disputes the admission of liability.

Judgment in default of defence.

(3) The clerk shall forthwith send to the garnishee by registered post a copy of the notice, and in the absence of a defence or set-off the judge may, in his discretion, give judgment against the garnishee, and unless the primary creditor files a notice disputing such defence, set-off or admission of liability, the garnishee shall not be bound to attend at the trial, and the sum admitted to be owing or accruing by him shall be taken to be the correct amount of his liability, unless the judge shall otherwise order, in which latter case the garnishee shall be notified by the clerk by registered post, and shall have an opportunity of attending at a subsequent date and being heard before judgment is given against him.

Costs.

(4) The costs of all notices required to be given under this section, shall be costs in the cause, and in no case shall be payable by the garnishee, unless so ordered by the judge. R.S.O. 1927, c. 95, s. 149.

Effect of service on garnishee.

**150.** Service of a summons on the garnishee shall have the same effect and consequence as service of an attaching order. R.S.O. 1927, c. 95, s. 150.



**151.** In giving judgment for the primary creditor, the judge may award to him the costs of the proceedings out of the amount found due from the garnishee to the primary debtor. R.S.O. 1927, c. 95, s. 151.

Costs of  
garnishee  
proceedings.

**152.**—(1) Upon the application of a person entitled to or interested in any debt attached or bound in the hands of a garnishee made at any time before actual payment out of court to the primary creditor, the judge may order that such debt be discharged from the claim of the primary creditor.

Application  
to discharge  
debt from  
attachment.

(2) A like order may be made, after the debt has been paid out of court to the primary creditor, in which case all parties shall be remitted to their original rights in respect thereto, except as against the garnishee, whose payment shall not be affected thereby, but shall be and remain an effectual discharge to him. R.S.O. 1927, c. 95, s. 152.

Order after  
money paid  
out of court.

**153.**—(1) The judge may, before giving judgment against the garnishee or at any time before actual payment out of court to the primary creditor, order such security as may be approved by him or by the clerk, to be given by or on behalf of the primary creditor, to abide by any order which may be made for repayment.

Security  
from  
primary  
creditor.

(2) The bond shall be to the clerk by his name of office, and shall enure for the benefit of all persons interested in or entitled to the debt, and, by leave of the judge and on such terms as he may impose, may be sued on in the name of the clerk for the time being, for the benefit of such persons. R.S.O. 1927, c. 95, s. 153.

Effect of  
bond.

**154.**—(1) Where a person other than the primary creditor or primary debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may enquire into and decide upon the claim, and where there is more than one claim decide upon the priority in which the several claims are entitled to rank on the said debt as the justice of the case may require. R.S.O. 1927, c. 95, s. 154 (1); 1934, c. 12, s. 2.

Case of  
adverse  
claims.

(2) Where the amount claimed by any such person exceeds \$30, the provisions of section 124 and the following sections relating to juries shall apply so as to give any party to the proceeding a right to require a jury. R.S.O. 1927, c. 95, s. 154 (2).

Right to  
jury in  
certain  
cases.

Judge may postpone or adjourn proceedings.

**155.** The judge may adjourn, from time to time, the hearing and other proceedings in garnishee cases, to allow time for giving omitted notices, or to produce further evidence, or for any other purpose, may require service on and notice to other additional persons, and may prescribe a form for any proceeding. R.S.O. 1927, c. 95, s. 155.

#### ARBITRATION.

Reference to arbitration by order of judge or by consent.

**156.**—(1) The judge, with the consent of the parties or their agents, may order the action, with or without other matters in dispute between the parties, being within the jurisdiction of the court, to be referred to the arbitration of such person or persons, and in such manner and on such terms as he may deem just.

Reference by agreement.

(2) The parties to an action may by writing, signed by themselves or their agents, agree to refer the matters in dispute to the arbitration of a person or persons named in the agreement.

Agreement to be filed.

(3) The agreement shall be filed with the clerk, and entered in the procedure book, as notices are entered. R.S.O. 1927, c. 95, s. 156.

Revocation of reference.

**157.** The reference shall not be revocable by either party except by leave of the judge. R.S.O. 1927, c. 95, s. 157.

Award to be entered as the judgment.

**158.** The award shall be entered by the clerk as the judgment in the action, and he shall forthwith give notice thereof to the parties. R.S.O. 1927, c. 95, s. 158.

Judge may set aside award.

**159.**—(1) The judge, on application to him within fourteen days after the entry of the award, may set it aside and remit the matters referred to the same arbitrator or arbitrators, or may order another reference to be made in the manner aforesaid.

Application after time limited.

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time within fourteen days after the expiration of the first mentioned fourteen days. R.S.O. 1927, c. 95, s. 159.

Arbitrators may administer oaths.

**160.** An arbitrator may administer an oath to the parties and to the witnesses examined before him. R.S.O. 1927, c. 95, s. 160.

## CONFESSIONS OF DEBT.

**161.**—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant, in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof; and upon the production of the confession or acknowledgment to the judge, and proof thereof by the oath of the clerk or bailiff, the judge may order that judgment be entered thereon.

Clerks and bailiffs may take confessions.

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant, or any other person, except his lawful fees for taking the confession or acknowledgment, and that he has no interest in the demand sought to be recovered. R.S.O. 1927, c. 95, s. 161.

Oath of clerk or bailiff.

## COSTS.

**162.**—(1) Unless otherwise provided, the costs of and incidental to all actions shall be in the discretion of the judge, who shall have full power to determine by whom and to what extent costs shall be paid.

Judge's authority as to costs.

(2) If the judge does not make an order as to costs, they shall abide the event of the action.

Costs to abide event except by order.

(3) Where the plaintiff does not appear or does not prove his claim, the judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Allowance to defendant for attendance.

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the judge shall nevertheless have the power conferred by subsection 1, and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. R.S.O. 1927, c. 95, s. 162.

Costs when action fails for want of jurisdiction.

**163.** Where in a contested action for more than \$100, and in the cases mentioned in clauses *b* and *c* of section 118, a counsel, solicitor or agent has been employed by the successful party in the conduct of the cause or defence, the judge may direct a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$25 or if the case occupies more than one day, to not more than \$50,

Counsel fees.

be allowed to the successful party and the same shall be added to the costs. R.S.O. 1927, c. 95, s. 163.

Costs of witnesses in certain cases.

**164.** Where the defendant having disputed the plaintiff's claim, afterwards and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at court, the judge may order the defendant to pay such costs or such portion thereof as to him may seem just. R.S.O. 1927, c. 95, s. 164.

#### JUDGMENT AND EXECUTION.

When money not paid, pursuant to order, execution to issue.

**165.**—(1) Where the judge gives judgment or makes an order for the payment of money, and default is made in payment of the whole or of any part thereof, the party in whose favour the order has been made shall be entitled to execution against the goods and chattels of the party in default.

Form of execution.

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution (Form 5), to a bailiff of the court, or to a bailiff of any other court within the county, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment, as have been ordered to be paid and remain due, and shall pay the same over to the clerk. R.S.O. 1927, c. 95, s. 165.

Cross judgments may be set off.

**166.** If there are cross judgments between the parties, the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered; and if both sums are equal, satisfaction shall be entered upon both judgments. R.S.O. 1927, c. 95, s. 166.

Writs of execution, where to be executed.

**167.** Except in actions brought under section 65, an execution or attachment shall not be executed out of the limits of the county over which the judge of the court from which the same issues has jurisdiction. R.S.O. 1927, c. 95, s. 167.

Effect of payment of execution before sale.

**168.** Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff, before an actual sale of his goods and chattels, the amount to be levied or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with



the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. R.S.O. 1927, c. 95, s. 168.

**169.**—(1) The clerk, immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment, shall forward by registered post to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

Notice to plaintiff of *nulla bona* return.

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from amongst the papers of the certificate shall be *prima facie* evidence against the clerk that the notice was not forwarded. R.S.O. 1927, c. 95, s. 169.

Registration certificate to be filed.

**170.** Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction of a division court is filed with a sheriff under *The Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the creditor may obtain from the sheriff a return according to the fact, and file the same with the clerk of the court in which the judgment was recovered, or, in the case of a certificate of a claim, with the clerk of the court of the division where the cause of action arose, or the debtor, or one of the debtors, if more than one, resides, and the clerk shall enter the return in his procedure book, and in the latter case the claim shall thereupon become a judgment of the court for the unpaid balance due thereon appearing by the return, and may be enforced in the same manner as a judgment of the division court. R.S.O. 1927, c. 95, s. 170.

Enforcing claims under Creditors' Relief Act in division courts. Rev. Stat., c. 126.

**171.** In the case of the death of either or both of the parties to a judgment, the party in whose favor the judgment has been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. R.S.O. 1927, c. 95, s. 171.

Revivor of judgment in case of death of party.

**172.**—(1) Every execution against goods shall bear the date of its issue, and shall be returnable immediately after the execution thereof, and, if unexecuted shall remain in force for thirty days, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk, at the instance of the execution creditor, for six months from the date of the renewal.

Execution, when dated and returnable.

Renewable.

Priority of execution.

(2) The execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the bailiff. R.S.O. 1927, c. 95, s. 172.

Judge may order an execution to issue before regular day.

**173.** Where the judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait till the day appointed for the payment thereof before an execution can issue, the judge may order an execution to issue at such time as he may deem just. R.S.O. 1927, c. 95, s. 173.

Executions against lands.

**174.**—(1) Where an execution against goods is returned *nulla bona*, and the sum remaining unsatisfied on the judgment amounts to the sum of \$40 or upwards, the judgment creditor shall be entitled to an execution (Form 6), against the land of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall issue an execution against the land of the judgment debtor directed to the sheriff of any county.

Effect of execution.

(2) The execution shall have the same force and effect as an execution issued from a county court.

Notice to debtor.

(3) Where an execution against lands has been placed in the hands of the sheriff he shall give notice thereof to the judgment debtor by registered letter addressed to him at his present or last known residence.

Sheriff's return to be made to clerk.

(4) The sheriff shall make a return thereof, and pay any money made thereon to the clerk of the court out of which the execution issued.

Further proceedings by execution creditor.

(5) Until the judgment is fully satisfied, the execution creditor may, subject to section 175, pursue the same remedy for the recovery thereof as if the judgment had been obtained in the county court.

Duration and renewal of writ

(6) The writ, if unexecuted, shall remain in force for three years only from its issue unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for three years from the date of the renewal.

Formal effect of renewal.

(7) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month, and year of the renewal, and a writ so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the sheriff.

(8) The production of an execution purporting to be marked with the memorandum shall be *prima facie* evidence of its having been renewed. Evidence of renewal.

(9) The sheriff shall be entitled to the same fees as upon a writ of execution against land issued from a county court. Fees on writ against lands.

(10) Where land is on hand for want of buyers a sheriff to whom such execution is directed may endorse thereon a return of "land on hand for want of buyers" and shall return a certificate of such endorsement to the clerk of the division court from whose office such execution issued in lieu of the writ, and such endorsement and the certificate so returned shall be deemed a return of the writ, and thereupon a writ of *venditioni exponas* may be issued by the clerk for the sale of such land and the original execution shall remain in force for the residue. R.S.O. 1927, c. 95, s. 174. Certificate in lieu of return of execution.

**175.** After an execution against lands has been issued under section 174, no further proceedings shall be had in the court out of which the execution issued without an order of the judge, unless the judgment creditor or his agent makes and files with the clerk a affidavit stating,— Further proceedings after execution against lands issued.

- (a) that the judgment remains unsatisfied in whole or in part;
- (b) the amount, if any, which has been paid upon the judgment;
- (c) that execution against land has been returned unsatisfied, or that he believes the judgment debtor has not sufficient land in the county, to the sheriff of which the execution was directed, to satisfy the judgment. R.S.O. 1927, c. 95, s. 175.

**176.** The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately, and at least eight days before the time appointed for the sale, put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice, signed by himself, of the time and place within the division when and where it will be exposed for sale, and the notice shall describe the property taken. R.S.O. 1927, c. 95, s. 176. Bailiff after seizure of goods to endorse date of seizure and give notice of sale.

**177.** The property so taken shall not be sold until the expiration of eight days at least after the seizure thereof. Goods not to be sold until eight days after seizure.

unless upon the request in writing under the hand of the party whose property has been seized. R.S.O. 1927, c. 95, s. 177.

Bailiff and other officers not to purchase goods seized.

**178.** A clerk, bailiff or other officer of the court shall not, directly or indirectly, purchase any property at any sale made by a bailiff under legal process, and every such purchase shall be absolutely void. R.S.O. 1927, c. 95, s. 178.

Right of bailiff to fees on execution, etc., when action settled or assignment made.

**179.** Where a bailiff has seized property under an execution or attachment, and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, shall have a lien therefor upon so much of the property as will reasonably satisfy the same; but in the event of a dispute as to the proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper amount shall be certified by the judge, and on such payment into court the lien shall cease. R.S.O. 1927, c. 95, s. 179.

#### TRANSCRIPT.

Clerk to prepare transcript of unsatisfied judgment for transmission to any other division court.

**180.**—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send the same to the clerk of any other division court, whether in the same or in any other county, with a certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which the same was recovered, and the post-office address of the person applying for the transcript, and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose, and all proceedings may be taken for enforcing the judgment in such last mentioned court.

Proceedings stayed in office from which transcript of judgment is issued.

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the judge, unless the person who obtained the transcript, or his agent, shall make and file with the clerk an affidavit stating,—

(a) that the judgment remains unsatisfied in whole or in part;



(b) that the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment,

and upon the affidavit being filed, the clerk may issue such other process as the applicant may be entitled to and may direct. R.S.O. 1927, c. 95, s. 180.

DEATH, ETC., OF BAILIFF WHILE EXECUTION OR ATTACHMENT  
UNEXECUTED.

**181.**—(1) In the event of the death, resignation, suspension or removal of a bailiff, after action taken by him under an execution or attachment, the proceedings may be continued by his successor. Continuation of proceedings.

(2) The benefit of all securities given to the bailiff shall enure to his successor in office. R.S.O. 1927, c. 95, s. 181. Securities given to the bailiff.

EXAMINATION OF JUDGMENT DEBTORS.

**182.**—(1) A party having an unsatisfied judgment may procure from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court, a summons in the prescribed form. R.S.O. 1927, c. 95, s. 182 (1). Judgment summons.

(2) Where a judgment debtor resides or carries on business within the limits of a city where there are two or more division courts having territorial jurisdiction within the limits of such city, a judgment summons may issue out of any such courts in which the judgment has been recovered or in which a transcript of judgment has been entered. 1929, c. 30, s. 3. Judgment summons,—issue of.

(3) Before the summons is issued the judgment creditor, or his agent, shall make and file with the clerk an affidavit stating,— Affidavit required before judgment summons.

(a) that the judgment remains unsatisfied in whole or in part; and

(b) that the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof, or that he has rendered himself liable to be committed to gaol under this Act.

Examination  
of judgment  
debtor.

(4) The summons shall be served personally upon the judgment debtor at least eight days before the return day, and if he appears he may be examined upon oath as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which formed the subject of the action, and as to the means and expectation he then had, and as to the property and means he still has of discharging the judgment debt, and as to the disposal he has made of any property.

Examination  
of witnesses.

(5) The party obtaining the summons and all witnesses whom the judge thinks requisite may be examined upon oath, touching the inquiries.

Place of  
examination.

(6) The examination shall not be held in open court unless the judge so directs.

Costs.

(7) The costs of the summons and of all proceedings thereon shall be costs in the action, unless the judge otherwise directs.

Party  
examined  
and dis-  
charged not  
to be again  
summoned.

(8) If, after the examination, the judge makes no order against the party examined, no further summons shall issue out of the same court against him at the suit of the same or any other creditor, except upon an affidavit satisfying the judge that since the examination the party has acquired the means of paying, or, upon facts not before the court upon the examination, that he did not then make a full disclosure of his estate, effects and debts. R.S.O. 1927, c. 95, s. 182 (2-7).

Exception.

When judg-  
ment debtor  
may be com-  
mitted to  
gaol.

**183.** If the party summoned—

(a) does not attend as required by the summons, or at any subsequent date to which the hearing or examination is adjourned, or give a sufficient reason for not attending; or

(b) attends and refuses to be sworn or to answer such questions as in the opinion of the judge are proper,

or, if it appears to the judge, by the examination of the party or by other evidence, that he

(c) obtained credit from the judgment creditor or incurred the debt or liability under false pretences, or by means of fraud or breach of trust; or

(d) has made or caused to be made any gift, delivery or

transfer of any property, or has removed or concealed the same with intent to defraud his creditors or any of them; or

- (e) had, when or since judgment was obtained against him, sufficient means and ability to pay the debt or damages or costs recovered against him, either altogether or by the instalments which the court, in which the judgment was obtained, ordered, without depriving himself or his family of the means of living, and that he has wilfully refused or neglected to pay the same as ordered,

the judge may order him to be committed to the common gaol of the county in which he resides or carries on business, for any period not exceeding forty days. R.S.O. 1927, c. 95, s. 183.

**184.**—(1) A party failing to attend shall not be liable to be committed for the default, unless the judge is satisfied that his non-attendance is wilful.

When party may be committed for non-attendance.

(2) If at the hearing it appears to the judge by the examination of the party, or otherwise, that he ought not to have been summoned, or if the judgment creditor or his agent does not appear, the judge shall award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. R.S.O. 1927, c. 95, s. 184.

Costs allowed him in certain cases.

**185.** Where a judgment has been recovered in an action which, but for subsection 2 of section 59, could not have been recovered in the division court, the judgment debtor shall not be committed where a judgment debtor could not have been committed upon or in respect of a judgment recovered in a higher court, or upon or by reason of an examination upon such a judgment. R.S.O. 1927, c. 95, s. 185.

Judgment summons where principal and interest sued for separately.

**186.**—(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment in the prescribed form directed to the bailiff of any court within the county, upon which shall be endorsed a memorandum of the amount upon payment of which the party is entitled to be discharged from custody, and the bailiff may, by virtue of the warrant, take the party and deliver him to the keeper of the gaol in which he has been directed to be imprisoned.

Warrant of commitment.

Constables,  
etc., to  
execute  
warrants.

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the keeper of the gaol shall receive and keep the party therein until discharged under the provisions of this Act, or otherwise, in due course of law. R.S.O. 1927, c. 95, s. 186.

When debtor  
in custody  
shall be dis-  
charged.

**187.** A party may be discharged out of custody,—

- (a) by order of the judge; or
- (b) when he has paid to the keeper of the gaol the amount endorsed on the warrant; or
- (c) upon the certificate of the clerk that such amount has been paid to him. R.S.O. 1927, c. 95, s. 187.

Judge may  
rescind order  
and may  
alter and  
modify the  
same.

**188.**—(1) The judge may rescind or alter the order for payment, and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable.

(2) The judge may rescind or alter or stay the operation of any order of commitment made by him, whether or not the same has been acted on. R.S.O. 1927, c. 95, s. 188.

Examination  
of officer of  
company.

**189.**—(1) A party having an unsatisfied judgment against an incorporated company may issue a summons calling upon any officer of the company to attend before the judge and submit to examination as to the property and assets of the company and its dealings with them and if the person summoned fails to attend or to submit to examination he shall be liable to be committed to the common gaol for any period not exceeding forty days.

(2) The summons shall be issued and served as nearly as may be in the same manner as in the case of a summons to a judgment debtor. *See* Con. Rule 581. R.S.O. 1927, c. 95, s. 189.

Debt not to  
be extin-  
guished by  
imprison-  
ment.

**190.** Imprisonment under this Act shall not extinguish the judgment, or protect the judgment debtor from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned, or deprive the judgment creditor of the right to execution on his judgment. R.S.O. 1927, c. 95, s. 190.

Annual  
return of  
commitment  
of judgment  
debtors.

**191.** Every clerk, on or before the 15th day of January in every year, shall make to the Inspector a return showing the number of judgment debtors who, during the twelve months



ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 183. R.S.O. 1927, c. 95, s. 191.

#### ABSCONDING DEBTORS.

**192.** Where a person indebted in a sum not less than \$4,<sup>Absconding debtors.</sup> either for debt or damages arising upon a contract, and recoverable in or upon a judgment of a division court,

- (a) absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or
- (b) attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or
- (c) keeps concealed to avoid service of process,

the clerk of any division court, upon the application of the creditor, and upon his filing an affidavit in the prescribed form made by him, his agent, or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court from which the same issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person within the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant with costs, and to return the warrant forthwith to the court. R.S.O. 1927, c. 95, s. 192.

**193.** The affidavit in section 192 mentioned may be taken before a judge or a justice of the peace, and, upon the same being filed with him, he may issue a warrant under his hand and seal in the form mentioned in section 192, and he shall forthwith transmit the affidavit to the clerk of the court within whose division the same was taken, to be by him filed. R.S.O. 1927, c. 95, s. 193.

**194.** Upon receipt of a warrant by the bailiff or constable, and upon being paid his lawful fees, including the fees for appraisalment, he shall forthwith execute the warrant, and make a true inventory of all the estate and effects which he seizes and takes by virtue thereof, and shall, within twenty-four hours after seizure, call to his aid two freeholders, who, being first sworn by him to appraise the estate and effects seized, shall then appraise the same, and the bailiff or constable shall forthwith return the inventory attached to the appraisalment to the clerk. R.S.O. 1927, c. 95, s. 194.

Proceedings  
may be con-  
tinued in  
same court.

**195.** In an action commenced by attachment the proceedings may be conducted to judgment and execution in the court of the division within which the warrant issued. R.S.O. 1927, c. 95, s. 195.

Proceedings  
commenced  
before at-  
tachment.

**196.** Where proceedings have been commenced before the issue of an attachment they may be continued to judgment and execution in the court in which the proceedings were commenced. R.S.O. 1927, c. 95, s. 196.

Property  
attached  
may be sold  
under  
execution.

**197.** The property attached upon a warrant of attachment shall be liable to seizure and sale under the execution to be issued upon the judgment, and if the property was perishable and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R.S.O. 1927, c. 95, s. 197.

Plaintiff not  
to divide  
cause of  
action.

**198.** A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing the same within the provisions of Sections 192 to 197, but a plaintiff having a cause of action for which, but for the amount of the claim, an attachment might be issued may abandon the excess, and the judgment shall be a full discharge of all demands in respect of the cause of action, and the entry of judgment shall be made accordingly. R.S.O. 1927, c. 95, s. 198.

If several  
attachments  
issued.  
Rev. Stat.,  
c. 127.

**199.** Subject to the provisions of *The Absconding Debtors Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the debtor, in proportion to the amounts actually due upon their judgments, and no distribution shall take place until, in the opinion of the judge, reasonable time has been allowed to the creditors to proceed to judgment. R.S.O. 1927, c. 95, s. 199.

If goods in-  
sufficient to  
satisfy  
claims of all  
attaching  
creditors.

**200.** Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share, unless he sued out his attachment and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable, within one month next after the issue of the first attachment. R.S.O. 1927, c. 95, s. 200.

Goods seized  
by constable  
to be  
delivered to  
bailiff.

**201.**—(1) Where property is attached under the provisions of Sections 192 to 200, by a constable, it shall be forthwith handed over to the bailiff of the court out of which

the warrant of attachment issued, or into which it was made returnable.

(2) Property attached by a bailiff under the provisions of Sections 192 to 200, and the property delivered to him under the provisions of subsection 1, shall remain in custody of the bailiff, and he shall keep it until disposed of according to law. R.S.O. 1927, c. 95, s. 201.

Custody of goods seized under attachment.

**202.**—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, whenever thereunto required by order of the judge, pay into court a sum sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored.

On what terms goods attached may be restored.

(2) Subject to the provisions of section 199, if, within one month after the property has been attached, the person against whom the attachment has issued, or some person on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been recovered and the property attached, or so much thereof as may be necessary to satisfy the judgment and costs, may be sold for the satisfaction thereof, or if the property has been previously sold as perishable so much of the proceeds thereof as may be necessary may be applied to satisfy the judgment and costs. R.S.O. 1927, c. 95, s. 202.

Sale of goods if the debtor does not appear and give security.

Perishable goods.

**203.**—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of abode or business of the defendant with any grown person residing there, or by leaving the copy at such place if no grown person be there found.

Proceedings against debtors where process not previously served.

(2) If it appears to the judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the judge shall order that no costs be allowed to the creditor. R.S.O. 1927, c. 95, s. 203.

Costs.

Perishable  
goods how  
disposed of.

Rev. Stat.,  
c. 127.

**204.** Subject to the provisions of *The Absconding Debtors Act*, where perishable property has been attached, the bailiff who has the custody thereof, the same having been first appraised, may, at the request of the attaching creditor, expose and sell the same at public auction to the highest bidder, giving at least eight days' notice at the office of the clerk and at two other public places within his division, of the time and place of sale, if the property attached will admit of being so long kept, otherwise he may sell the same at his discretion. R.S.O. 1927, c. 95, s. 204.

Creditors  
may be  
required to  
indemnify  
the  
defendant.

**205.**—(1) It shall not be compulsory upon the bailiff or constable to attach, or upon the bailiff to sell perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff, in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale in case judgment be not obtained by him, and the bond shall be filed with the clerk.

Application  
of proceeds  
of sale.

(2) The money made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. R.S.O. 1927, c. 95, s. 205.

Enforcing  
security  
given under  
Act.

**206.**—(1) A bond given in the course of any proceeding under this Act may be sued on in any division court of the county wherein the same was executed, notwithstanding that the penalty in the bond exceeded the sum of \$100.

Delivery of  
bond to  
party  
entitled.

(2) The bond shall be delivered to any person entitled to it, upon the order of the judge, to be enforced or cancelled as the case may require. R.S.O. 1927, c. 95, s. 206.

#### CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED.

Interpreta-  
tion.

**207.** In this and the next following six sections,

"Landlord."

(a) the word "landlord" shall include the person entitled to the immediate reversion of land, or, if it be held in joint tenancy, coparcenary or tenancy in common, any one of the persons entitled to the reversion; and

"Agent."

(b) the word "agent" shall mean any person usually employed by the landlord in the letting of land or



in the collection of the rents thereof, or specially authorized by writing under the hand of the landlord to act in any particular matter. R.S.O. 1927, c. 95, s. 207.

**208.**—(1) Where a claim is made to or in respect of property or security taken in execution or attached under the process of a division court, or the proceeds or value thereof, by a landlord for rent, or by a person other than the party against whom the process issued, then, subject to the provisions of *The Absconding Debtors Act*, upon application of the bailiff or officer charged with the execution of the process, either before or after an action has been brought against him, the clerk shall issue a summons calling before the court out of which the process issued, or the court for the division in which the seizure or attachment under the process was made, the party who issued the process and the person making the claim, and thereupon any action which has been brought in the Supreme Court or in any other court in respect of the claim, shall be stayed.

Claims of landlords, etc., to goods seized in execution, how to be adjusted.

Rev. Stat., c. 127.

(2) The court in which the action has been brought, or a judge thereof, on proof of the issue of the summons, and that the property or security was taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had in the action after the issue of the summons out of the division court.

Costs.

(3) The judge shall adjudicate upon the claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to him may seem just, and shall also adjudicate between the parties, or either of them, and the bailiff or officer in respect of any claim for damages arising out of the execution of the process by the bailiff or officer, although the amount of the damages claimed or awarded is beyond the jurisdiction of a division court, and may make such order in respect thereof, and of the costs of any proceedings as to him may seem just.

County judge to adjudicate on claims.

(4) The order may be enforced in like manner as an order made in an action.

Enforcing order.

(5) The judge, upon the application of the execution or attaching creditor or the claimant, or the bailiff or officer, may grant a new trial as in other cases, and may in the meantime stay proceedings.

New trial.

(6) Where the bailiff or officer has executions or attachments for different persons against the same property it shall not be necessary to make a separate application on each exe-

Where more than one execution or attachment has issued.

cution or attachment; but he may use the names of the execution or attaching creditors collectively, in the application, and the summons may issue in the name of the creditors as plaintiffs.

Rights of parties as to defence and as to costs.

(7) The parties and the bailiff or officer shall have the same rights of defence and counter-claim, including in all cases the right and liability to costs, as would exist had an action, within the jurisdiction of the court, been brought to recover the damages. R.S.O. 1927, c. 95, s. 208.

Provisions in relation to rents due to landlords.

**209.**—(1) The landlord of a tenement in or upon which property is taken under an execution, may, by notice in writing, signed by himself or his agent, stating the terms of the holding and the rent payable, delivered to the bailiff or officer making the levy, claim any rent due and in arrear at the time of the taking in execution not exceeding the rent of four weeks where the tenement has been let by the week, and not exceeding the rent for two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent for one year.

Notice of claim for rent.

(2) Notice of the claim may be given at any time before the return of the process, notwithstanding that the property may in the meantime have been removed from the premises upon which it was seized and where the property of a tenant is sold within ten days after seizure, the money realized shall remain in court until the expiration of the ten days to answer the claim of the landlord, and where the money has been paid into court the notice may be directed to the clerk with like effect as if given to the bailiff or officer, before the sale of the property seized.

How the bailiff is to proceed.

(3) The bailiff or officer making the levy shall also distrain for the amount of the rent claimed, and the costs of the distress, but shall not sell the property, or any part thereof, until after the expiration of eight days after the distress.

Fees of bailiff in such cases.  
Rev. Stat., c. 122.

(4) For every distress for rent in arrear the bailiff or officer shall be entitled to have as costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Costs of Distress Act*.

Sale where replevin made.

(5) If any replevin is made of the property distrained, so much of the property taken under the execution shall be sold as will satisfy the money and costs for which the execution issued and the costs of the sale, and the surplus of the sale, if any, and the property so distrained shall be returned as in other cases of distress for rent and replevin.

(6) An execution creditor shall not have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to the provisions of this Act has been paid the rent in arrear for the periods hereinbefore mentioned. R.S.O. 1927, c. 95, s. 209.

Priority of  
landlord's  
claim.

#### OFFENCES AND PENALTIES.

##### *Contempt of Court.*

**210.** If a person wilfully insults the judge or any officer of a division court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance within the court room or within hearing of the court, any bailiff or officer of the court may, by direction of the judge, take the offender into custody and bring him before the judge, and the judge may impose upon him a fine not exceeding \$20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to the common gaol of the county for a period not exceeding one month, unless the fine and costs with the expense attending the commitment are sooner paid. R.S.O. 1927, c. 95, s. 210.

Contempt of  
court.

##### *Resisting Officers.*

**211.**—(1) If a person interferes with a bailiff or officer, or his deputy or assistant, while in the execution of his duty, or makes or attempts to make a rescue of any property seized or attached under process of the court, he shall incur a penalty not exceeding \$20, to be recovered by order of the court, or on summary conviction before a justice of the peace, and shall also be liable to be imprisoned, by order of the court or justice, for any term not exceeding three months.

Interfering  
with bailiff.

(2) The bailiff or officer, or any peace officer, may take the offender into custody, with or without warrant and bring him before the court or justice. R.S.O. 1927, c. 95, s. 211.

Arrest of  
offender.

##### *Misconduct of Clerks, Bailiffs, etc.*

**212.**—(1) Upon a complaint in writing that a bailiff or officer, acting under colour or pretence of process of the court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the judge may, at a sittings of the court, enquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons,

Misconduct  
of bailiffs  
and officers.

and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he may think just.

Enforcing  
order for  
payment by  
bailiff.

(2) In default of payment of the money ordered to be paid by the bailiff or officer within the time mentioned in the order for the payment thereof, the judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to the common gaol of the county for a period not exceeding three months, unless the money and costs are sooner paid. R.S.O. 1927, c. 95, s. 212.

Extortion.

**213.** If a clerk, bailiff, or other officer is guilty of extortion he shall, upon proof thereof before the court, be forever disqualified to hold any office of profit or emolument in a division court, and shall also be liable in damages to the party aggrieved. R.S.O. 1927, c. 95, s. 213.

#### *Negligence of Bailiffs.*

Bailiff  
neglecting  
duty in rela-  
tion to  
execution.

**214.** If a bailiff, by neglect, connivance or omission, loses the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued, and upon demand being made therefor, and on his refusal to satisfy the same, payment may be enforced by such means as are provided for enforcing judgments. R.S.O. 1927, c. 95, s. 214.

#### ENFORCING PAYMENT OF FINES.

Enforcing  
payment of  
fines.

**215.** A fine imposed by the judge under authority of this Act may be enforced by his order in like manner as a judgment. R.S.O. 1927, c. 95, s. 215.

#### GENERAL PROVISIONS WITH REGARD TO ACTIONS FOR THINGS DONE UNDER THIS ACT.

Distress not  
to be deemed  
unlawful or  
persons mak-  
ing it tres-  
passers by  
reason of  
defect in  
proceedings.

**216.** A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on



account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. R.S.O. 1927, c. 95, s. 216.

**217.** The Lieutenant-Governor in Council may make rules for regulating any matter relating to the practice and procedure of the courts, or to the duties of the officers thereof, or to the costs of proceedings therein, and every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts now or hereafter in force respecting such courts. 1935, c. 20, s. 7.

Rules to be made by lieutenant-Governor in Council.

**218.**—(1) In cases not expressly provided for by this Act or by the rules, the judge may, in his discretion, adopt and apply the general principles of practice in the Supreme Court to actions and proceedings in the division courts.

Practice of the Supreme Court may be followed in unprovided cases.

(2) Nothing herein contained shall authorize the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees. R.S.O. 1927, c. 95, s. 217.

Limitations as to costs.

#### PROCEEDINGS NOT TO BE SET ASIDE FOR MATTERS OF FORM.

**219.** No proceedings shall be quashed or vacated for any matter of form. R.S.O. 1927, c. 95, s. 219.

Defects in form.

## PART II.

### APPLICABLE ONLY TO PROVISIONAL JUDICIAL DISTRICTS.

#### TRIAL BY JURY.

**220.** Unless exempt under *The Jurors Act* all male persons between twenty-one and sixty years of age who reside in the division, and who are subjects of His Majesty by birth or naturalization, may be summoned to serve as jurors at any division court. R.S.O. 1927, c. 95, s. 220.

Who liable to serve as jurors.

Rev. Stat., c. 108.

**221.** The clerk and a justice of the peace resident in the division, or in case there is no justice of the peace so resident, then a justice of the peace residing in an adjoining division, shall select the persons to serve as jurors for the trial of actions required to be tried by or before a jury. R.S.O. 1927, c. 95, s. 221.

Who to select jurors.

Deposit by  
person  
requiring.

**222.** The party applying for a jury shall deposit with the clerk for the expenses of such jury the sum of \$6, and each juror who attends shall be paid by the clerk the sum of fifty cents. R.S.O. 1927, c. 95, s. 222.

#### JURISDICTION.

Jurisdiction  
of courts.

**223.** The courts, in addition to the jurisdiction conferred by Part I, shall have jurisdiction in personal actions otherwise within the jurisdiction of a division court where the amount claimed does not exceed \$200. R.S.O. 1927, c. 95, s. 223.

#### ORDER FOR ARBITRATION ON CONSENT.

Matters in  
dispute not  
over \$800  
may be re-  
ferred by  
judge with  
consent to  
arbitration.

**224.**—(1) The judge may, with the consent in writing of the parties, order an action with or without other matters in dispute between the parties and within the jurisdiction of the court as to subject-matter, irrespective of amount if not exceeding \$800, to be referred to arbitration to such persons, and in such manner and on such terms as he thinks just.

Application  
of Part I.

(2) All the provisions of Part I, as to arbitration shall in other respects apply to a reference under this section. R.S.O. 1927, c. 95, s. 224.

#### TRIAL BY JUDGE ON CONSENT.

Parties may  
agree that  
the judge  
shall try any  
matter not  
over \$800.

**225.**—(1) If the parties agree by writing signed by them to refer causes of action, claims and demands to a judge and that he may try and determine the same, the judge shall have power and jurisdiction so to do, if the subject matter in dispute does not exceed \$800 in amount, and is otherwise within the jurisdiction of a division court.

Submission  
to be made  
in duplicate.

(2) The agreement shall be in duplicate, and one of the duplicates shall be filed with the judge and the other with the clerk of the court in which the action is to be tried, and the court shall thereupon have jurisdiction in respect of the matter referred.

May be filed  
and proceed-  
ings thereon  
had to judg-  
ment in the  
division  
court.

(3) Upon the agreement being filed the plaintiff may enter his claim in such division, and sue out a summons thereupon as in ordinary cases, and the proceedings in the action may be conducted to judgment and execution, irrespective of the amount recovered if it does not exceed \$800, in the same manner as other actions in such court. R.S.O. 1927, c. 95, s. 225.

## APPEAL.

**226.**—(1) An appeal shall lie to the Court of Appeal from <sup>Appeal.</sup> a judgment under section 225 and from an order setting aside an award made pursuant to a reference made under the provisions of section 224.

(2) The provisions of Part I, as to appeals shall apply <sup>Application of Part I.</sup> to an appeal under this section. R.S.O. 1927, c. 95, s. 226.

**227.** Upon an application for a new trial, in an action <sup>Service on application for new trial.</sup> wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the clerk of the court where the action was tried, or left at his office for the person entitled thereto, and the clerk shall forthwith send by registered post all such papers to the person entitled to the same or his agent. R.S.O. 1927, c. 95, s. 227.

## FORM 1.

(Section 25.)

## COVENANT BY CLERK OR BAILIFF.

Know all men by these presents, that we *J. B.*, Clerk (*or Bailiff as the case may be*) of the <sup>Division Court, in</sup> the County (*or United Counties or District*) of *S. S.* of *S. S.* of *S. S.*, in the said County *or District* of (*Esquire*), and *P. M.*, of *S. S.*, in the said County *or District* of (*Gentleman*) do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that *J. B.*, Clerk (*or Bailiff*) of the said Division Court shall duly pay over to every person entitled to the same, all such moneys as he shall receive by virtue of the said office of Clerk (*or Bailiff*) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (*or Bailiff*) by law, and shall not misconduct himself in the said office to the damage of any person being a party in any legal proceeding; (*in the case of a Clerk's covenant insert:* and shall pay over to any Bailiff or Bailiffs of the Division Courts the fees to which he or they may become entitled under the tariff of fees, unless where the Clerk and the Bailiff otherwise agree in writing); nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows, that is to say:

Against the said <i>J. B.</i> in the whole,	—dollars.
Against the said <i>S. S.</i> in the whole,	—dollars.
Against the said <i>P. M.</i> in the whole,	—dollars.

In Witness Whereof, we have to these presents set our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Signed, sealed and delivered,  
in the presence of \_\_\_\_\_

R.S.O. 1927, c. 95, Form 1.

## FORM 2.

(Section 30.)

## PROCEDURE BOOK.

No. \_\_\_\_\_ Division Court of the \_\_\_\_\_  
 \_\_\_\_\_ 19\_\_\_\_  
 Ensuing Sittings the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
 \_\_\_\_\_ of \_\_\_\_\_ vs. \_\_\_\_\_ of \_\_\_\_\_  
 19\_\_\_\_

		No. of initial letter of item of tariff	Bailiff	Clerk	\$
	<p>Received particulars of plain- tiff's claim ( ) for \$ , and \$ towards costs</p> <p>Issued ( ) summons to Summons ret'd. Served the day of 19 , by miles,</p> <p>The defendant having been served with special sum- mons and particulars of claim, and not disputing the same, it is adjudged that the plaintiff recover \$ for debt, and \$ for costs.</p>				

Clerk.

R.S.O., 1927, c. 95, Form 2.



FORM 3.

(Section 30.)

FOREIGN PROCEDURE BOOK.

No. \_\_\_\_\_

19 \_\_\_\_\_

Division Court of the \_\_\_\_\_

vs. \_\_\_\_\_

Received summons from _____	Division Court,	
County of _____	Rec.	
Issued summons to Bailiff _____	Aff.	
Summons ret'd. Served the _____ day of _____	Post.	
by _____		
Ret'd to Clerk of _____	Division Court,	
County of _____	Bailiff's fees.	
	Miles	
	Ser.	
	Att.	

R.S.O. 1927, c. 95, Form 3.

FORM 4.

(Section 147.)

SUMMONS IN GARNISHEE PROCEEDINGS.

No. \_\_\_\_\_, A.D. 19 \_\_\_\_\_

In the \_\_\_\_\_ Division Court,, of the \_\_\_\_\_

District of \_\_\_\_\_

Between A. B., *Primary Creditor*,

and

C. D., *Primary Debtor*,

and

E. F., *Garnishee*.

To the above-named *Primary Debtor and Garnishee*:—

Take notice that the above-named *Primary Creditor* claims from you, the *Primary Debtor*, \_\_\_\_\_ dollars, as shown by his particulars of claim herewith. If the amount of the claim with lawful costs be paid to the Clerk of this Court within \_\_\_\_\_ days from the service hereof upon you, the *Primary Debtor*, no further proceedings shall be taken.

Unless within \_\_\_\_\_ days after the service of this summons on you, the *Primary Debtor*, you enter with the Clerk of this Court a notice in writing that you intend to dispute the claim, the Clerk may enter judgment and issue execution against you.

In case you, the *Primary Debtor*, give such notice disputing the claim, the action will be tried at the sittings of this Court to be held at \_\_\_\_\_ in the said County or District of \_\_\_\_\_ next after the expiration of \_\_\_\_\_ days from the time this summons is served on you and the sittings of the Court are set forth below.

Given under the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_

A.D. 19 \_\_\_\_\_

G. H.,  
Clerk.

## NOTICES AND WARNINGS TO PRIMARY DEBTOR AND GARNISHEE.

No. 1. If the primary debtor disputes the primary creditor's claim, or any part of it, he must leave with the clerk, within \_\_\_\_\_ days after the day of the service hereof, a notice to the effect that he disputes the claim, or if not the whole claim, how much he disputes, in default whereof final judgment may be signed for the whole claim, or such part as is not disputed at any time within one month after the return of the summons, or afterwards by leave of the judge, without prejudice to the primary creditor's right to recover for the remainder of the claim.

No. 2. If the primary debtor desires to set off any demand or counterclaim against the primary creditor at the trial or hearing, or to take the benefit of any statute of limitations or other statute, notice thereof in writing together with the particulars of the set-off or counterclaim must be left with the clerk of the court and served on the primary creditor, or left at his usual place of abode, if he is living within the division, not less than five days before the day on which the action will be tried, and in case the primary creditor does not reside within the division such notice and particulars must be left with the clerk for him.

No. 3. On the day of trial the primary debtor must bring all the books and papers necessary to prove his case, or in any way connected with it or with his transactions with the primary creditor.

No. 4. Summons for witnesses and the production of documents may be obtained at the office of the clerk upon payment of the proper fee.

No. 5. The ensuing sittings of the court will be held as follows, viz.:

At \_\_\_\_\_ o'clock a.m., on Monday, the \_\_\_\_\_ day of \_\_\_\_\_  
 A.D. 19\_\_\_\_, at \_\_\_\_\_ o'clock a.m., on Tuesday, the \_\_\_\_\_  
 day of \_\_\_\_\_, A.D. 19\_\_\_\_, etc.

*(Here may be inserted the time of one or more subsequent sittings specifying the hour of the day of the week and month, plainly written in words at full length, and not expressed by figures or contraction of words.)*

No. 6. In any case in which an order may be made changing the place of trial, application must be made therefor to the judge of the court within eight days after the day of service hereof (where the service is required to be ten days before the return) or within twelve days after the day of such service (where the service is required to be fifteen days or more before the return).

No. 7. The garnishee is entitled to set up any statutory or other defence or set-off, or to dispute or admit liability in whole or in part, and the garnishee and all other persons interested in or in any way affected by the proceedings may also show any other just cause why the debt sought to be garnished should not be paid to or applied in or towards satisfaction of the claim of the primary debtor, and if they desire to do so they must file with the clerk notice thereof with particulars of such defence or set-off, or an admission of the amount owing or accruing from them, or either of them, within eight days after the service of the summons.

No. 8. You, the said garnishee, are hereby notified that from and after the time of the service of this summons on you all debts owing or accruing from you to the above-named primary debtor, are attached, and if you pay the same otherwise than into court, you will be liable to repay it in case the court so orders.

No. 9. In the absence of any notice of such defence or set-off the judge may in his discretion give judgment against you or either of you.

*If the debt sought to be garnished is for wages or salary add as follows:—*

The debt alleged to be due by the primary debtor to the primary creditor was *(or was not as the case may be)* incurred for board or lodging.

*And when the primary debtor is unmarried and has no family depending upon him for support, add*

The primary debtor is an unmarried person having no family depending upon him for support.

No. 10. The primary debtor resides at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Ontario, and his occupation in the service of the garnishees is that of an engine driver *(or as the case may be)* on the railway of the garnishees *(insert name of company)* and is occupied as such on said railway between the cities of Toronto and Hamilton *(or as the case may be)*.

R.S.O. 1927, c. 95, Form 4.

FORM 5.

(Section 165.)

EXECUTION AGAINST GOODS.

No.  
A.D. 19 \_\_\_\_\_,  
In the \_\_\_\_\_ Division Court of the \_\_\_\_\_ County or  
District of \_\_\_\_\_

Between *A. B.*, Plaintiff,  
*C. D.*, Defendant.

Whereas on \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_, the  
the \_\_\_\_\_ recovered in the said Court judgment against  
for \_\_\_\_\_ dollars for debt (or damages) and  
dollars for costs which remains unsatisfied *(when the judgment*  
*has been revived, add, "and on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_,*  
*the said judgment was duly revived.")* You are hereby required to levy  
of the goods and chattels of the \_\_\_\_\_ in the said County or Dis-  
trict \_\_\_\_\_ (not exempt from execution) the said moneys amounting  
together to the sum of \_\_\_\_\_ dollars and interest thereon at the  
rate of five percentum per annum from the \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
19 \_\_\_\_\_, and your lawful fees so that you may have the same immediately  
after the execution hereof and pay over to the Clerk of this Court for  
the \_\_\_\_\_

Given under seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_  
A.D. 19 \_\_\_\_\_

X. Y.,  
Clerk.

To V. W.  
Bailiff of said Court.

Judgment.....\$  
Interest.....  
Subsequent costs.....  
This execution.....

Levy the sum of.....\$ \_\_\_\_\_,  
and your lawful fees upon this precept.

## FORM 6.

(Section 174.)

## EXECUTION AGAINST LANDS.

In the  
District of

Division Court of the

County or

Between A. B., Plaintiff,  
and  
C. D., Defendant.

Whereas, on the            day of           , A.D. 19           , the plaintiff recovered in the said Court, judgment against the defendant for \$            for debt, and \$            for costs of suit, which remain unsatisfied (*when judgment has been revived add "and on the            day of           , A.D. 19           , the said judgment was duly revived."*) You are hereby required to levy of the lands and tenements of the defendant in the said            county, the said moneys, amounting together to the sum of \$            and, interest thereon at the rate of five per centum per annum, from the day of            A.D. 19           , together with your own fees, poundage and incidental expenses; so that you may have the same immediately after the execution hereof, and pay the same over to the Clerk of this Court for the plaintiff.

Given under the seal of the Court, this            day of           , A.D. 19           .

Z. Y.,  
Clerk.

To V. W.,  
Sheriff of the

County or District of

R.S.O. 1927, c. 95, Form 6.



4. JURORS AND JURIES.

CHAPTER 108.

The Jurors Act.

INTERPRETATION.

1. In this Act,—
- (a) “County” shall include district;

Interpretation.  
“County.”
- (b) “County court” shall include district court;

“County court.”
- (c) “County selectors” shall include district selectors;

“County selectors.”
- (d) “Sheriff” shall include a coroner, an elisor and every other officer to whom the return of jury process belongs. R.S.O. 1927, c. 96, s. 1.

“Sheriff.”

QUALIFICATIONS, EXEMPTIONS, AND DISQUALIFICATIONS OF JURORS.

- 2.—(1) Subject to the provisions of section 42, unless Who qualified and liable to serve.  
exempted or disqualified, every male person of the age of twenty-one years or upwards, being a British subject by birth or naturalization and in the possession of his natural faculties, and not infirm or decrepit, who or whose wife is assessed upon the last revised assessment roll as owner or tenant in respect of real property, of the value of not less than \$600 in cities and \$400 in towns, villages and townships shall be qualified and liable to serve as a juror on grand and petit juries in the Supreme Court, and in all courts of civil or criminal jurisdiction within the county in which he resides.
- (2) Where property is assessed as the property of two or more persons jointly, they shall be treated as if severally assessed for equal proportions of the property. R.S.O. 1927, c. 96, s. 2. Joint proprietors to be deemed equally interested.
- 3.—(1) The following persons shall be exempt from being returned and from serving as grand or petit jurors, and their names shall not be entered on the rolls prepared and reported by the selectors of jurors as hereinafter mentioned:— Persons exempted from serving as jurors.

- (a) Every person sixty-five years of age or upwards; R.S.O. 1927, c. 96, s. 3, cl. (a); 1929, c. 31, s. 2 (1).
- (b) Every member of the Privy Council of Canada and of the Executive Council of Ontario;
- (c) Every member of the Senate and of the House of Commons of Canada and of the Assembly;
- (d) The secretaries of the Governor-General and of the Lieutenant-Governor;
- (e) Every officer and other person in the service of the Governor-General or of the Lieutenant-Governor;
- (f) Every officer, clerk and servant of the Senate and of the House of Commons of Canada, of the Assembly, and of the Public Departments of Canada and of Ontario;
- (g) Every officer and servant of the Dominion and Provincial Governments;
- (h) Every judge;
- (i) Every police magistrate;
- (j) Every sheriff, coroner, gaoler and keeper of a house of correction or lock-up house;
- (k) Every sheriff's officer and constable;
- (l) Every minister, priest or ecclesiastic under any form or profession of religious faith or worship;
- (m) Every barrister and every solicitor of the Supreme Court actually practising, and every student-at-law;
- (n) Every officer of any court of justice;
- (o) Every physician, surgeon, dental surgeon, pharmaceutical chemist and veterinary surgeon qualified to practice, and in actual practice;
- (p) Every officer in His Majesty's Army or Navy on full pay;
- (q) The officers, non-commissioned officers and men of every militia corps, and a certificate under the hand

of the officer commanding any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption;

- (r) Every pilot and seaman engaged in the pursuit of his calling;
- (s) Every head of a municipal council;
- (t) Every municipal treasurer, clerk, collector, assessment commissioner, assessor and officer;
- (u) Every professor, master, teacher, officer and servant of any university, college, institute of learning or school;
- (v) Every editor, reporter and printer of any public newspaper or journal; R.S.O. 1927, c. 96, s. 3, cls. (b-v).
- (w) Every person employed in the management, working of a railway or street railway and every person permanently employed by any public commission, carrying on the business of developing, transmitting or distributing electrical power or energy; R.S.O. 1927, c. 96, s. 3, cl. (w); 1929, c. 31, s. 2 (2).
- (x) Every telegraph and telephone operator;
- (y) Every miller;
- (z) Every fireman belonging to any fire department or company, who has procured the certificate authorized by section 1 of *The Firemen's Exemption Act*, Rev. Stat., c. 281. during the period of his enrolment and continuance in actual duty as such fireman; and every fireman who is entitled to and who has received the certificate authorized by section 4 of the said Act; but no fireman shall be exempt from serving as a juror unless the captain or other officer of the fire department or company, at least five days before the time appointed for the selection of jurors, notifies to the clerk of the municipality the names of the firemen belonging to his department or company, and residing within the municipality, who are exempt and claims exemption for them. R.S.O. 1927, c. 96, s. 3, cls. (x-z).

Exemption  
where  
person under  
subpoena.

(2) Every person who is under subpoena or is likely to be called as a witness in any civil or criminal proceeding shall be exempt from being returned and from serving as a grand or petit juror at any sittings of a court at which such proceeding might be tried, and his name shall not be entered on the rolls prepared and reported by the selectors of jurors for any such sittings and if entered, shall be deleted therefrom. 1936, c. 32, s. 2.

Service at  
division  
courts not  
to exempt.

4. Service at a division court shall not exempt a juror from serving at any other court. R.S.O. 1927, c. 96, s. 4.

Convicted  
persons  
disqualified.

5. No person convicted of treason, felony, perjury or subornation of perjury, unless he has obtained a free pardon, shall be qualified to serve as a grand or petit juror. R.S.O. 1927, c. 96, s. 5.

#### COUNTY SELECTIONS.

County  
selectors.

6.—(1) The judge of the county court, the junior judge thereof, the mayor of any city situate in the county, the warden, the treasurer of the county, the treasurer of any such city, and the sheriff or in his absence the deputy sheriff, any three of whom shall be a quorum, shall be *ex-officio* selectors of jurors, from the jurors' rolls within their respective counties, and shall be known as "county selectors."

Chairman.

(2) The judge of the county court, and in his absence the junior judge, shall be the chairman, and in the absence of both, the county selectors may appoint a chairman *pro tempore*.

(3) In the County of York,—

Special  
provisions as  
to County of  
York.

- (a) the sheriff of the City of Toronto, or in his absence the deputy sheriff, shall be one of the county selectors;
- (b) the judge of the county court, the sheriff of the County of York, or in his absence his deputy, and the warden and treasurer of the county only shall attend when the selection is being made from the local municipalities of the county other than the City of Toronto;
- (c) The senior of the junior judges, the sheriff of the City of Toronto, or in his absence his deputy, and the mayor and treasurer of the City of Toronto only shall attend when the selection is being made for the City of Toronto;



(d) The senior of the junior judges shall be the chairman of the city section of the county selectors, and in his absence the members of that section may appoint from among themselves a chairman *pro tempore*.

(4) In case of an equality of votes the chairman of the meeting shall have a double or casting vote. R.S.O. 1927, c. 96, s. 6. Casting vote.

7. Where the county treasurer is a practising barrister or solicitor he shall be disqualified from acting as a county selector, and the clerk of the county council or, if he is a practising barrister or solicitor, the clerk of the county court shall be a county selector in the stead of the county treasurer. R.S.O. 1927, c. 96, s. 7. When county clerk or clerk of county court a selector.

8. The clerk of the peace shall attend all meetings of the county selectors, and shall enter their proceedings and resolutions in a book kept for that purpose, but he shall have no voice in the selection of jurors, and shall not advise or express an opinion whether any name ought to be placed upon or omitted from the list of jurors. R.S.O. 1927, c. 96, s. 8. Clerk of peace to attend meetings of county selectors.

9. The county selectors shall assemble annually at the office of the clerk of the peace, or at the court house, on the 15th day of September, for the purpose of determining the number of grand and petit jurors for the Supreme Court and inferior courts respectively, which shall be returned by the local municipalities to the clerk of the peace, for service during the ensuing year. R.S.O. 1927, c. 96, s. 9. Annual meeting of county selectors.

10. The county selectors shall at such meeting, by resolution, first determine and declare the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, and shall fix the total number of grand and petit jurors for the Supreme Court and for the inferior courts which the local municipalities shall return at three times the number declared by the resolution to be required. R.S.O. 1927, c. 96, s. 10. Determining number of jurors for the year.

11. The county selectors shall then, by resolution, determine the number of grand and petit jurors for the Supreme Court and for the inferior courts to be returned for each local municipality, and the number of persons on the voters' list of each municipality, marked as qualified to serve on juries, shall form an approximate basis for determining the number of jurors to be returned by each local municipality, and the clerk of the peace shall produce for the use of the Determining number of jurors from each municipality.

Rev. Stat.,  
c. 7.

county selectors the voters' lists delivered to him by the clerks of the local municipalities under the provisions of *The Voters' Lists Act*, or certified copies of such lists. R.S.O. 1927, c. 96, s. 11.

County selectors to determine the number of petit jurors to be drafted and returned to each court.

**12.**—(1) The county selectors shall also, by resolution at such meeting, determine the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, and the county court for the current or ensuing year.

Copies of resolution to be transmitted and filed.

(2) The clerk of the peace shall forthwith transmit to the central office of the Supreme Court and to the clerk of the county court a certified copy of such resolution, and such copies shall be filed in such offices. R.S.O. 1927, c. 96, s. 12.

Power to amend resolutions.

**13.** The county selectors may by resolution amend any resolution passed under the provisions of sections 9 to 12 and either increase or decrease the number of jurors to be selected and returned by the local municipalities, the number to be selected by the county selectors, or the number of petit jurors to be drafted and returned to any sittings of the Supreme Court, the court of general sessions of the peace, or the county court, and in such case due notice thereof shall be given by the clerk of the peace to the persons entitled to notice of the original resolution. R.S.O. 1927, c. 96, s. 13.

Clerk of the peace to notify clerks of local municipalities.

**14.** The clerk of the peace shall within five days after the meeting of the county selectors notify in writing the clerk of each local municipality of the number of grand and petit jurors respectively required to be returned from the municipality. R.S.O. 1927, c. 96, s. 14.

#### SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL.

Certain municipal functionaries to be municipal selectors of jurors.

**15.** The head of the council, the clerk, the assessment commissioner and the assessors of every local municipality, any two of whom shall be a quorum, shall be *ex-officio* the local selectors of jurors for the municipality. R.S.O. 1927, c. 96, s. 15.

When and where the selection shall be made.

**16.**—(1) The local selectors shall meet annually on the 10th day of October, at the place where the meetings of the municipal council are usually held, or at such other place within the municipality as may be appointed by the head of the council, or during his absence, or a vacancy in the office, by the clerk, for the purpose of selecting from the assessment roll the names of the persons qualified and liable to serve as jurors.

(2) The local selectors shall proceed *de die in diem* until the selection is completed, and shall select such persons as in their opinion, or in the opinion of a majority of them, are, from the integrity of their characters, the soundness of their judgment and the extent of their information, the most discreet and competent for the performance of the duties of jurors.

Principles by which the selectors are to be governed.

(3) The clerk, or the assessment commissioner, or assessors, or the other officer or person who has the actual charge or custody of the assessment roll for the year and the proper voters' list shall bring them to such meeting.

Assessment rolls to be produced.

(4) The local selectors, before entering upon the performance of their duties, shall severally make and subscribe an oath in the form following:

Selectors to be sworn.

I, A. B., do swear (*or affirm, as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a local Selector of Jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as Jurors for the year 19 .

The oath.

Sworn (*or affirmed*) before me, at the day of , 19 .  
(Signed) C. D. (Signed) A.B.

which oath a justice of the peace, a commissioner for taking affidavits or a notary public may administer. R.S.O. 1927, c. 96, s. 16.

**17.**—(1) The local selectors shall, from the certified voters' lists for the municipality for the year, if the list has been certified, or if the same has not been certified, then from the list for the year published by the clerk of the municipality, or if no such list has been published then from the last certified list, or if there is no certified list then from the last revised assessment roll, write down twice as many of the names of persons appearing by the last revised assessment roll to be possessed of the requisite property qualification and otherwise qualified to serve as jurors, as have been required by the county selectors to be selected and returned from the municipality; and the proper assessment roll shall in all cases be referred to by the local selectors for the purpose of determining who are exempt or disqualified from acting as jurors, and for such other purposes as are necessary in the discharge of their duty.

Manner in which municipal selectors to make list from which to select jurors.

(2) The local selectors shall from year to year in making the selection proceed in alphabetical order, and shall write down consecutively in like order the names of all those per-

Selection to be made in alphabetical order.

sons qualified to serve as jurors and not exempt by law, until twice the total number required to be returned from the municipality is obtained, and at each subsequent annual meeting the local selectors shall begin at the letter next to that at which they left off in the next preceding year, and so on until they have gone through all the remaining letters of the alphabet, when they shall again begin with the letter A.

Procedure when number qualified under one letter not exhausted.

(3) In the event of the local selectors obtaining the names of a sufficient number of qualified persons after they have entered upon, but not before they have exhausted the entire number of those qualified under any one letter, they shall at the next annual selection commence at the beginning of such letter, but shall not select from the names of any persons that were written down and selected from and returned in the next preceding year.

Where number of names of duly qualified persons not sufficient.

(4) Where, after discarding the names of those exempt or incapacitated, the number of qualified persons required by the local selectors to be selected from the municipality cannot be obtained, the local selectors shall place on the list the names only of such persons within the municipality as are qualified, and the number of jurors required shall be selected from such list, and the clerk shall notify the county selectors of the facts, and they shall at their next and subsequent selections have regard thereto.

Clerk to notify county selectors of facts.

Local selectors to select two-thirds of names on list.

(5) The local selectors shall select at least two-thirds of the persons whose names they have so written down, being those who in their opinion are the best qualified to serve as jurors, and shall place a number opposite each name so selected.

Inability of municipal selectors to find numbers of names required by county selectors not to affect jury panel.

(6) The inability of the local selectors, after discarding the names of those exempt or incapacitated, to find twice the number of persons having the proper qualification that have been required by the county selectors to be selected and returned, or to find the number required by the county selectors to be selected and returned shall not invalidate or render irregular the selection by them of the jury list or panel, or render the same liable to challenge. R.S.O. 1927, c. 96, s. 17.

When selectors to question assessment roll.

**18.** It shall not be necessary for the local selectors to refer to any name on the assessment roll which has not the letter J opposite to it in the voters' list, unless they suspect that names are not properly marked. R.S.O. 1927, c. 96, s. 18.

In case of an equality of votes among the selectors, who to have the casting vote.

**19.** In case of an equality of votes as to any question, the head of the council or, in the case of his absence or a vacancy in the office, the clerk shall have a double or casting vote. R.S.O. 1927, c. 96, s. 19.



**20.**—(1) The local selectors shall prepare as many ballot papers of uniform and convenient size as there are names selected, and the ballot papers shall be numbered to correspond with the numbers opposite to the names of the two-thirds selected, and they shall then proceed to select by ballot the number of jurors required by the county selectors.

Jurors to be  
selected by  
ballot.

(2) The manner of balloting shall be as follows:

Manner of  
balloting.

(a) The local selectors shall place the ballot papers, correctly numbered, in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk, or one of the local selectors, shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the list;

(b) The name and addition of the person who has been so selected shall then be written down, and the local selectors shall proceed in like manner until the necessary number has been completed. R.S.O. 1927, c. 96, s. 20.

**21.**—(1) When the local selectors have completed the selection, they shall, for the purpose of the report thereof, distribute the names of the persons so selected into four divisions; the first consisting of persons to serve as grand jurors in the Supreme Court; the second of persons to serve as grand jurors in the inferior courts; the third of persons to serve as petit jurors in the Supreme Court; and the fourth of persons to serve as petit jurors in the inferior courts, and shall make such distribution according to the best of their judgment with a view to the relative competency of the persons to discharge the duties required of them respectively.

List to be  
distributed  
into four  
divisions.

(2) The distribution among the four divisions shall be made so that each division shall contain the number of names required by the county selectors to be returned for such division. R.S.O. 1927, c. 96, s. 21.

In accordance with  
requisition  
of county  
selectors.

**22.**—(1) The local selectors shall make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report, Schedule A, of their selection, ballot and distribution in which they shall set forth in alphabetical order the names of the persons selected.

Selectors to  
make out a  
duplicate  
report, etc.

Declaration  
to be sub-  
joined to the  
report.

(2) There shall be subjoined to each duplicate a declaration, subscribed by them, stating, each for himself, that he has made the selection, ballot and distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection, gain, reward or hope thereof, other than such fees as he is lawfully entitled to receive for the same under the authority of this Act.

Reports to  
be deposited  
and kept on  
file.

(3) One of such duplicates shall, on or before the 25th day of October, be deposited by the local selectors with the clerk of the peace and the other with the clerk of the municipality, and they shall be kept on file for the use and information of all who may have lawful occasion to examine or make use of them.

In case of  
loss, a copy  
of the dupli-  
cate report  
to be filed.

(4) In case of the loss or destruction of a duplicate report, the officer in whose office the same was when so lost or destroyed shall, as soon as reasonably may be, procure from the officer to whom the legal custody of the other duplicate report belongs, a certified copy thereof, and shall file the same in his office, and such certified copy shall thenceforth be taken, received and acted upon in all respects as if it were the duplicate report so lost or destroyed. R.S.O. 1927, c. 96, s. 22.

Record to be  
kept by  
clerk of  
municipality.

**23.** The clerk shall enter in a book to be kept for that purpose the dates of the meetings of the local selectors, the persons present thereat and taking part therein, and the letters of the alphabet from which the selections are from year to year made, and, when the names in any letter have not been exhausted in any year, the clerk shall enter in such book the names and additions of all persons' whose names begin with the last mentioned letter that were written down and selected from and returned during the then current year. R.S.O. 1927, c. 96, s. 23.

#### PREPARATION OF JURORS' BOOKS.

Clerk of the  
peace to  
prepare  
jurors' books  
in form of  
schedule B.

**24.** The clerk of the peace shall in each year procure a book, to be called "The Jurors' Book," and shall keep the same as nearly as may be in the form of Schedule B, and according to the directions contained in the notes to the Schedule. R.S.O. 1927, c. 96, s. 24.

In which  
shall be  
entered the  
names of  
grand and  
petit jurors.

**25.** From the reports of the local selectors made to the clerk of the peace for such year, or from such of them as have been made on or before the 25th day of October, the clerk of the peace shall, between the 25th day of October

and the 10th day of November in such year, transcribe into the jurors' book, in alphabetical order, the names and additions of all persons selected to serve as grand and petit jurors, as the same are set forth and distributed in such reports. R.S.O. 1927, c. 96, s. 25.

**26.** The names shall be transcribed into the book in four rolls, the first to be called "Roll of Grand Jurors to serve in the Supreme Court;" the second "Roll of Grand Jurors to serve in the Inferior Courts of Criminal Jurisdiction;" the third, "Roll of Petit Jurors to serve in the Supreme Court;" and the fourth, "Roll of Petit Jurors to serve in the Inferior Courts of Criminal and Civil Jurisdiction." R.S.O. 1927, c. 96, s. 26.

Such books to contain four rolls of jurors.

**27.** In each of the rolls shall be transcribed the names and additions of all persons selected, ballotted and reported to serve as jurors. R.S.O. 1927, c. 96, s. 27.

Names and additions of jurors.

#### DIVISION OF JURORS' ROLLS.

**28.** The jurors' rolls shall each be divided into local municipalities, and the names within each municipality shall be arranged alphabetically, and all the names in each of such rolls shall be numbered consecutively. R.S.O. 1927, c. 96, s. 29.

Division of jurors' rolls according to municipalities.

**29.** To each of such rolls shall be subjoined a certificate of the clerk of the peace that he has carefully compared such roll with the reports made by the local selectors of jurors for the year, as such reports were on file in his office on the 25th day of October in such year, and that the roll contains a true and correct transcript of the names and additions of all persons so reported to serve as jurors. R.S.O. 1927, c. 96, s. 30.

How the rolls are to be certified.

**30.—(1)** As soon as he has completed the jurors' book but not later than the 12th day of November in each year, unless the judge of the county court, for such reasons as he deems sufficient, shall extend the time for preparing the jurors' book, the clerk of the peace shall appear before the said judge in his chambers and deliver to the judge the jurors' book so prepared by him together with the jurors' books for so many of the preceding years as may be required for proceeding with the preparation of the jurors' lists as hereinafter directed, and shall thereupon make oath before the judge,—

Presenting and certifying jurors' rolls.

(a) that he has carefully compared the jurors' rolls in the first mentioned jurors' book with the reports made by the local selectors, as the same were on

file in his office on the 25th day of October next preceding, and that to the best of his knowledge and belief such jurors' rolls contain a true and correct transcript of the names and additions of all persons reported by the local selectors;

- (b) that the jurors' books secondly above mentioned are those on file in his office for the years to which they purport respectively to relate, and that all entries therein were truly and faithfully made, without fraud or collusion of any kind, and according to the very truth.

Where clerk of peace has not been in office during preceding years.

(2) If the clerk of the peace has not been in office during all the time that the jurors' books have been on file he shall make oath that all entries made during the time that he has been in office have been truly and faithfully made without fraud or collusion of any kind, and, according to the very truth, and that he verily believes that all other entries prior to his appointment were truly and faithfully made. R.S.O. 1927, c. 96, s. 31.

Modification of oath.

**31.** On the first occasion of bringing the jurors' book before the judge, there being no jurors' book for any preceding year, the oath to be made by the clerk of the peace shall be modified accordingly. R.S.O. 1927, c. 96, s. 32.

If the clerk of the peace suspects previous errors or fraud, he is to state the same.

**32.** If the clerk of the peace is unable to make the oath required by subsection 2 of section 30, as to the entries made in any of such jurors' books previous to the time of such book coming into his custody, or has reason to suspect that any original entry in such book has, after its original completion, been erased, mutilated or altered, he shall in lieu of that part of the oath make oath that, as to such entry, he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or has reason to suspect that an original entry has been erased, mutilated or altered. R.S.O. 1927, c. 96, s. 33.

Inquiry as to error or fraud.

**33.**—(1) Where the clerk of the peace has made an affidavit in the terms of section 32 the judge shall examine and inquire by the oath of such persons as may be informed thereof, into the supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made and shall report the same to the Attorney-General, and shall cause the incorrect entries, erasures, mutilations or alterations to be rectified, and the books restored to their original state as nearly as may



be, according to the best information he has been able to obtain of or concerning the same.

(2) For the purposes of subsection 1, the judge shall possess all the powers which may be granted to a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1927, c. 96, s. 34. Powers of judge. Rev. Stat., c. 19.

**34.** The judge shall thereupon certify under his hand and seal in each of such books, the receipt thereof and the oath upon which the same has been received, and such books shall be deposited with the clerk of the peace and shall be the jurors' rolls from which the selection of jurors shall be made as hereinafter provided. R.S.O. 1927, c. 96, s. 35. Certifying jurors' books.

**35.**—(1) The county selectors shall meet at the court house or in the judge's chambers on a day to be fixed by the chairman, not earlier than the 12th day of November and not later than the 15th day of December in each year, at ten o'clock in the forenoon, to proceed with the selection of jurors from the jurors' rolls prepared under section 26, and shall proceed as far as practicable *de die in diem* until the selection is completed. Meeting of county selectors and selection of lists.

(2) The county selectors shall so arrange and proceed that the selection of jurors by them and the preparation of the jury lists shall be completed, and the lists duly certified and filed in the office of the clerk of the peace before the 31st day of December in the same year. Selection to be completed before end of year.

(3) Before entering upon the performance of their duties the county selectors shall severally take and subscribe an oath in the following form: Selectors to be sworn.

I, A. B., do swear (*or affirm as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a County Selector, and will select from the proper rolls the requisite number of the most fit and proper persons to serve as Jurors for the year 19 . . . Form of oath.

Sworn (*or affirmed*) before me at

day of

(Signed)

, the

, 19 . . .

(Signed)

A. B.

(4) A justice of the peace, a commissioner for taking affidavits or a notary public may administer such oath, and an entry thereof shall forthwith be made in the minute book of the county selectors. R.S.O. 1927, c. 96, s. 36. How administered and recorded.

**36.**—(1) The county selectors shall then proceed to select from the jurors' rolls the names of the requisite number of persons to serve as jurors for such year, being those persons Selection of jurors from jurors' rolls.

who, in the opinion of the selectors or of a majority of them, are, from the integrity of their character, the soundness of their judgment, and the extent of their information the most discreet and competent for the performance of the duties of jurors, and in making such selection the county selectors may, if they think fit, select a proportion of the names for each jury list from each local municipality.

Clerk of peace to enter names of jurors selected.

(2) The county selectors shall first select the grand jury list for the Supreme Court, and when they have decided upon the selection of any person, his name and addition shall be forthwith inserted by the clerk of the peace in the minute book.

Names selected to be inserted in list.

(3) The names of the persons so selected, alphabetically arranged, with their places of residence and additions, shall then be copied by the clerk of the peace into the jurors' book with the title "The Grand Jury List for the Supreme Court," and shall be numbered consecutively, and also with the number of each name on the roll of grand jurors for the Supreme Court.

Clerk of the peace to enter names in the book.

(4) The clerk of the peace shall thereupon mark each of such names on the last mentioned roll as transferred to such jury list by a reference to the number belonging to it on that list.

List so made to be the grand jury list for Supreme Court.

(5) The list of names, so selected and transferred, shall be the grand jury list for the Supreme Court for the year next after that in which the same has been so prepared. R.S.O. 1927, c. 96, s. 37.

Grand jury list for inferior courts to be made in like manner.

**37.** After the grand jury list for the Supreme Court has been completed, the required number of names of persons to serve as grand jurors in the inferior courts shall, in like manner, be selected and transferred to a similar list in the same book, with the title "The Grand Jury List for the Inferior Courts" for such next year, and the last mentioned list shall be the grand jury list for the inferior courts for the year next after that in which the same has been so prepared. R.S.O. 1927, c. 96, s. 38.

Lists of petit jurors of Supreme Court and inferior courts.

**38.** The required number of names shall in like manner be selected and transferred from the roll of jurors to serve as petit jurors in the Supreme Court to the petit jury list for the Supreme Court for such year, and lastly from the roll of jurors to serve as petit jurors in the inferior courts to the petit jury list for the inferior courts for such year. R.S.O. 1927, c. 96, s. 39.

**39.** The number to be selected from the jurors' rolls for a jury list shall be the number of grand jurors that the county selectors have determined to be requisite for the year, and of petit jurors for the Supreme Court and inferior courts respectively the number theretofore determined by the county selectors to be requisite as the panels for the year, with one-fourth the number thereof added thereto. R.S.O. 1927, c. 96, s. 40.

Number to be selected for jury list.

**40.** The county selectors may prepare any of the jury lists before the previous lists, or any of them, have been transferred to the jurors' book. R.S.O. 1927, c. 96, s. 41.

Selection may be made before transfer to jurors' books.

**41.** So soon as the four jury lists have been so prepared the chairman and the clerk of the peace shall certify under their hands in the jurors' book, immediately after each of such jury lists, that the same was prepared from the proper roll, as the law directs, and the date of its preparation, and the jurors' book, with the jury lists so certified, shall then be filed in the office of the clerk of the peace. R.S.O. 1927, c. 96, s. 42.

The chairman and clerk of the peace to certify books.

#### PROVISIONAL JUDICIAL DISTRICTS.

**42.—(1)** In a provisional judicial district where there are two judges of the district court, the judges and the sheriff, and where there is but one judge, the judge, the clerk of the district court and the sheriff shall be the district selectors of jurors.

District selectors.

(2) Save as herein otherwise provided the district selectors of jurors shall perform the like duties and possess the like powers as county selectors of jurors, and the sheriff and clerk of the peace of the district shall respectively perform the like duties and possess the like powers with respect to the selection, empanelling and summoning of jurors and otherwise as the sheriff and the clerk of the peace of a county.

To have powers and duties of county selectors.

(3) The provisions of this Act with regard to the selection and distribution of jurors by the local selectors of jurors shall apply to every local municipality in a provisional judicial district.

Local selectors.

(4) After the district selectors at the meeting to be held as provided in section 9 have determined and declared the number of grand and petit jurors respectively that will be required as jury panels for service at the courts during the ensuing year, they shall by resolution fix the total number of grand and petit jurors for the Supreme Court, and for

Number of grand and petit jurors to be returned.

the inferior courts, which shall be returned by the local municipalities, and the total number which shall be selected by the district selectors from territory without municipal organization.

Selection by  
district  
selectors.

(5) The district selectors shall then proceed to select, from among the male persons of the full age of twenty-one years resident in territory without municipal organization, a list of persons to serve as grand and petit jurors respectively with those to be selected from the local municipalities.

Persons  
exempt not  
to be  
selected.

(6) No person shall be selected to serve as a juror from territory without municipal organization who is exempted or disqualified under the provisions of this Act.

Property  
qualification,  
—when not  
required.

(7) No property qualification shall be required in the case of any person selected from territory without municipal organization.

Use of  
Voters' list,  
etc.

(8) In making up any list of jurors from territory without municipal organization, the district selectors may have recourse to the last voters' list prepared and certified for such territory and to any assessment or collector's roll prepared for school purposes, and may proceed upon any information furnished by such list or roll or possessed or acquired by them in any other manner, but the persons selected shall be such as from the integrity of their character, the soundness of their judgment and the extent of their information are, in the opinion of the district selectors, the most discreet and competent for the performance of the duties of jurors. R.S.O. 1927, c. 96, s. 43.

#### JURY PROCESS.

Judges to  
issue pre-  
cepts to the  
sheriffs.

**43.**—(1) The judges of the Supreme Court, or one or more of them for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace may respectively issue precepts (Form 1, Schedule D), to the sheriff for the return of a proper number of grand jurors for such sittings, and of such number of petit jurors as the county selectors shall have determined as the number to be drafted and returned or such greater or less number as in their or his opinion is required.

Number of  
grand jurors.

(2) The precepts for the return of grand jurors shall command the return, and the panel shall consist of thirteen grand jurors. R.S.O. 1927, c. 96, s. 44.



(3) Where a grand jury has been discharged, any judge <sup>Re-</sup>presiding at the sittings of the court for which such grand <sup>summoning</sup> jury was summoned may, during the continuance of such <sup>members of</sup> sittings, upon the request of the Crown attorney or counsel appearing for the Attorney-General, direct the sheriff to resummon the members of such grand jury to re-attend at the sittings at such time as he may determine, and where all of the grand jurors do not appear, the provisions of section 68 shall apply. 1936, c. 32, s. 3.

**44.**—(1) The judge presiding at a jury sittings of the <sup>Inspection of</sup> Supreme Court and at a sittings of the court of general sessions <sup>institutions.</sup> of the peace shall instruct the grand jury that it may inspect all or any of the institutions within the county or district which are maintained in whole or in part by public moneys, and every grand jury which makes such an inspection shall prepare a report or presentment indicating the conditions found to be existing in each of the institutions inspected; provided that where such an inspection has been conducted within the county or district within six months prior to the date of the commencement of such sittings, no inspection shall be made without the specific consent of the judge.

(2) The time which may be devoted by a grand jury to <sup>Amount of</sup> the inspection of institutions shall be subject to the control <sup>time to be</sup> and direction of the presiding judge. 1936, c. 32, s. 4. <sup>spent in</sup> <sup>inspection.</sup>

**45.**—(1) The Crown attorney may direct the sheriff to <sup>Postpone-</sup>summon the petit jury for any of the sittings of the Supreme <sup>ment of</sup> Court, county court, or court of general sessions of the peace <sup>summons to</sup> on any day after the day upon which the court is scheduled <sup>jurors.</sup> to open at such hour as he may determine where in the circumstances he deems it advisable to do so; provided that the Crown attorney shall give such direction to the sheriff in writing at least eight days before the day upon which the court sittings is to be commenced.

(2) Where the sheriff has received a direction from the <sup>Sheriff's</sup> Crown attorney under subsection 1 he shall forthwith by <sup>notice to</sup> registered letter (Form 2, Schedule D), notify each person <sup>petit jurors.</sup> summoned to serve as a jurymen to attend the court on the day and at the hour mentioned in such direction and that his attendance is not required on the day named in the summons, and in case any person, after receiving such notice, attends the court on a day prior to that mentioned in the notice he shall not be entitled to receive any fees or mileage for such attendance.

Where juror attends owing to non-receipt of notice.

(3) Where, after the giving of such notice, a juror attends the sittings of the court on the opening day and the sheriff is satisfied that the notice was not received prior to such attendance and that the juror attended in good faith, believing such attendance to be necessary, the sheriff shall allow such juror his mileage and fees. 1937, c. 35, s. 2.

Judge of county court may order additional petit jurors for Supreme Court sittings.

**46.**—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time prior to the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of petit jurors.

Additional petit jurors for inferior courts.

(2) The judge of the county court, after the issue of the precept, at any time prior to or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal may direct the sheriff to return an additional number of petit jurors.

Duty of sheriff as to drafting additional number of jurors.

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel, and shall forthwith thereafter summon them. R.S.O. 1927, c. 96, s. 45.

Release of jurors by judge.

**47.**—(1) The judge presiding at a jury sittings of the Supreme Court, or of the county court, may at any time during the continuance of such sittings release any number of jurors from further service, unless and until resummoned by direction of the judge.

Selection of jurors to be released.

(2) Where any number of jurors are to be released from further service under the provisions of this section, the judge shall, in the presence of the jury panel and in open court, so advise the clerk of the court, who shall place all the cards upon which the names of the jurors are written in the box provided for that purpose and shall cause it to be thoroughly shaken and shall then withdraw from the box, one at a time, the number of cards equivalent to the number of jurors who are to be released, and the jurors whose names appear on such cards shall thereupon be released by the judge.

Trial of person charged with indictable offence.

(3) Where jurors have been released under the provisions of this section, the trial of any person charged with an indictable offence shall not be commenced at the sittings of the court unless such jurors have been summoned to re-attend at such

sittings on or before the date upon which any such trial is commenced, or unless a new panel of jurors has been summoned to attend such sittings returnable on or before such date.

(4) Where jurors are released under the provisions of this section they shall not be entitled to receive the fees provided by this Act during the period of such release. 1936, c. 32, s. 5.

**48.** The proper officer in the Central Office at Osgoode Hall, Toronto, shall procure the precepts for the return of panels of grand and petit jurors required for the sittings of the Supreme Court, and transmit the same to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. R.S.O. 1927, c. 96, s. 46.

**49.** Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels to petit jurors. R.S.O. 1927, c. 96, s. 47.

**50.—(1)** Where a judge of the Supreme Court deems it necessary to have two or more sets of petit jurors to serve at any sittings of the Supreme Court he may direct the sheriff to return such number of petit jurors, not exceeding in the County of York three hundred and eighty-four, in the County of Wentworth two hundred and sixteen, and in any other county one hundred and forty-four, as such judge may think fit, and such judge shall fix and direct the number of sets and the day for which each set shall be summoned.

(2) The sheriff shall divide such jurors into as many sets as may be directed, and shall in the summons to every juror specify at what time his attendance will be required.

(3) Each set shall for all purposes be deemed a separate panel. R.S.O. 1927, c. 96, s. 48.

**51.** Subject to the provisions of this Act the Supreme Court and the judges thereof shall have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for the amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and

Fees.

Proper officer to procure precepts for return of panels, and transmit to proper officers.

When same panels for general sessions and county courts.

When two or more sets of petit jurors.

Within certain limits as to numbers.

Sheriff to divide jurors into sets.

Each set a separate panel.

The Supreme Court may issue precepts as heretofore.

accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be qualified according to this Act. R.S.O. 1927, c. 96, s. 49.

The directions for precepts, at sittings of Supreme Court to apply to general sessions.

**52.** The provisions of this Act, respecting the issue of precepts for the return of a panel of grand jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall in all particulars be observed and followed with respect to the sittings of the court of general sessions of the peace. R.S.O. 1927, c. 96, s. 50.

And county courts.

**53.** The provisions of this Act respecting the issue of precepts for the return of a general panel of petit jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of the several county courts, except that the number of petit jurors to be summoned in the County of York shall not exceed two hundred and eighty-eight. R.S.O. 1927, c. 96, s. 51.

Summoning of jurors for City of Toronto and County of York.

**54.** Precepts for the County of York shall be directed to the sheriff to whom is assigned the court for which the jurors are to be summoned, and the sheriff, whether of the City of Toronto or of the County of York, to whom any precept to summon jurors for the sittings of any court at the City of Toronto is addressed shall summon the jurors necessary for such court, and make all proclamations, and give all notices, not only from and in his own bailiwick, but also from and in the bailiwick of the other of such sheriffs, and for these purposes each of them shall have equal power and authority in either bailiwick. R.S.O. 1927, c. 96, s. 52.

#### DRAFTING PANELS FROM JURY LISTS.

How sheriffs to draft panels of jurors.

**55.** Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel of the names of the jurors contained in the proper jury list, whose names shall be drafted from such list in the manner hereinafter mentioned. R.S.O. 1927, c. 96, s. 53.

If no jurors' book for the year.

**56.** Where there is no jurors' book for the year, or certified copy thereof, in existence, the sheriff may return a panel of jurors drafted from the proper jury list in the jurors' book of the nearest preceding year for which there is a jurors' book, or certified copy thereof, in existence. R.S.O. 1927, c. 96, s. 54.



**57.** Where there are no jurors, or not a sufficient number upon the jury list, the sheriff may return to the precept a panel of jurors drafted, or the residue of whom have been drafted from the proper jury list in the jurors' book of the nearest preceding year for which there is a jurors' book, or certified copy thereof, in existence. R.S.O. 1927, c. 96, s. 55.

If not a sufficient number on the lists.

**58.** Upon receipt of the precept the sheriff shall post up in his office, and also on the door of the court house of the county, or if there be no court house, then in some other public place, written notice of the day and hour at which he will attend at the office of the clerk of the peace to draft such panel of jurors, and at such time and place he shall proceed to draft the panel by ballot from the jury list in the presence of the clerk of the peace and any two justices of the peace of the county, who, upon reasonable notice from the sheriff, are hereby required to attend, and for such services the said justices shall each receive the sum of \$1 for each of such panels drafted, which sums shall be paid by the treasurer of the county, on receipt of the sheriff's certificate that such service has been performed. R.S.O. 1927, c. 96, s. 56.

What notice sheriff shall give.

Amount to be paid justices of the peace for each panel.

**59.**—(1) If the sheriff has sufficient time he shall post up such notice at least eight days before the drafting of the panel, and if there be not sufficient time he shall post up such notice forthwith upon receipt of the precept.

Notice to be eight days if time admits.

(2) If the drafting or completing of the panel, at the time appointed, is prevented by unavoidable accident the same may be subsequently done or completed upon similar notices being first given. R.S.O. 1927, c. 96, s. 57.

The drafting if not completed may be subsequently.

**60.**—(1) Before proceeding to draft a panel of jurors from a jury list the sheriff shall prepare a proper title or heading for the panel of jurors to be returned, to which he shall fix an appropriate number according as such panel by the jurors' book appears to be the first, second, third or subsequent panel drafted from such jury list, and the title or heading shall set forth in words at length the number of jurors to be returned.

How sheriff to prepare a panel.

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballot papers of uniform and convenient size, such set containing the same number of ballot papers as there are numbers on the jury list, allowing one number to each ballot paper, which number shall be printed or written on the same, and he shall then proceed to draft the panel of jurors. R.S.O. 1927, c. 96, s. 58.

Ballots for drafting panel.

How panel  
of jurors to  
be drafted.

**61.** The manner of drafting the panel shall be as follows:—

- (a) The sheriff shall place the ballot papers in a box or urn, and shall cause it to be shaken so as sufficiently to mix the ballot papers, and he shall then openly draw from the box or urn indiscriminately one of the ballot papers, and declare openly the number on such ballot paper, whereupon the clerk of the peace, or one of the justices of the peace shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the jury list;
- (b) If such person is exempt from being drafted or from serving upon such panel, under section 3, or if, upon the face of such jury list, it appears that the person whose number has been so drafted has previously been drafted to serve on a panel drafted from such jury list in obedience to a precept for the return of a general panel for any sittings of the Supreme Court, the court of general sessions of the peace, or county court, and that such person has actually attended and served upon such panel, and a sufficient number of names to complete the panel then in course of being drafted, remains on the jury list without taking any of those who have been so previously drafted, the sheriff shall publicly announce the fact of such exemption or previous service, and that the name of the person so drafted is, for that reason, not inserted in the panel;
- (c) If no such cause appears for omitting the name of such person from the panel, the name and addition of the person whose name has been so drafted shall be thereupon written down, and shall be marked by the sheriff on such jury list, with a reference to the number which will belong to such panel in the jurors' book;
- (d) The sheriff shall then proceed in like manner to draft and dispose of other numbers from the box or urn, until the necessary number for the panel has been completed;
- (e) The names of the persons so drafted, arranged alphabetically, with their places of residence and additions shall then be transcribed by the sheriff upon another sheet of paper, with a reference to the number of each name on the jury list, and each name shall be

thereupon marked by him or by his deputy upon the jury list book, with a reference to the number which belongs to such name in the panel in the jurors' book.

- (f) The panel so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy, and of the clerk of the peace and justices of the peace, present at such drafting, or of at least two of them, shall then be entered in the said juror's book, and attested by the signatures of such sheriff, or his deputy, and of the clerk of the peace and the justices, or at least two of them. R.S.O. 1927, c. 96, s. 59.

**62.** The sheriff shall, upon his return to the precept, annex thereto a panel containing the names, places of abode, and additions of the persons so drafted, and shall transmit one copy thereof to the clerk of the peace, and another to the central office at Osgoode Hall, Toronto, or to the local registrar, or to the clerk of the county court, as the case may be. R.S.O. 1927, c. 96, s. 60.

**63.—**(1) The jurors' book and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 62 having a copy thereof, and except in so far as may be necessary in order to prepare the lists of the panel, and serve the jury summons, and except as provided in subsection 2, shall not be disclosed by the sheriff, his deputy, officer, clerk, or by any officer mentioned in section 62, or by any other person, until ten days before the sittings of the court for which such panel has been drafted, and during such period of ten days the sheriff, or his deputy, and any officer mentioned in section 62 having a copy of such panel shall permit the inspection at all reasonable hours of the jurors' book and of such panel or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish such litigants or accused persons or their solicitors upon request, and payment of a fee of \$2, a copy of any such panel.

(2) A party to a cause may obtain from the sheriff or any other officer mentioned in section 62, having a copy of any panel, leave to examine the jurors' book or such panel upon filing with the sheriff or such other officer an affidavit, made by himself or by his solicitor, stating that an examination of the jurors' book or panel is necessary to determine whether a special jury shall be struck in such cause, and that the

Copies of panel to be transmitted to clerk of the peace and to central office or local registrar.

Secrecy of jurors' book and panel.

When copies may be furnished.

When examination of panel may be permitted.

examination is not desired and will not be used for any other purpose, and upon also filing with the sheriff or such other officer the consent of the judge of the county court obtained on such material as he may deem sufficient. R.S.O. 1927, c. 96, s. 61.

#### SUMMONING JURORS.

Jurors to be summoned twenty days before attendance required.

**64.**—(1) The sheriff shall summon every person drafted to serve on grand juries or petit juries not being special juries, twenty days at least before the day upon which the juror is to attend,—

- (a) in the case of a juror residing in a city or in a town or village in which the court house is situate, by delivering to the juror, or in case of his absence from his usual place of abode, by leaving with some grown-up person there residing; or
- (b) in the case of a juror residing in any other municipality or in territory without municipal organization by sending to him by registered mail,

a notice in writing (Form 3, Schedule D), under the hand of the sheriff, but when the sheriff is directed to draft and summon additional jurors under the provisions of this Act, such twenty days' service shall not be necessary. R.S.O. 1927, c. 96, s. 62 (1).

When actions to be entered for trial.

(2) Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the county court, actions to be tried by a jury whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings, provided that no order extending the time shall be made after the notice provided for by subsection 5 has been given by the sheriff to the jurors. 1935, c. 33, s. 2.

Counter-mandating jury summonses where no business for jury.

(3) Where there is no business requiring the attendance of a jury at any sittings of the Supreme Court, or of any county court for the trial of actions with a jury, the local registrar or the clerk of the county court, as the case may be, at least five clear days before the day appointed for such sittings, shall give notice thereof in writing (Form 4, Schedule D), to the sheriff, and that the attendance of jurymen is not required.

For criminal prosecutions or general sessions.

(4) A similar notice shall be given to the sheriff by the clerk of the peace in the case of a sittings of the Supreme



Court for the trial of criminal prosecutions, or in case of the sittings of the court of general sessions of the peace in any county, when it appears that the attendance of jurymen at such sittings is not required.

(5) Subject to the provisions of subsection 8, the sheriff, upon receipt of such notice or notices, shall forthwith by registered letter or otherwise, as he may deem expedient, notify (Form 5, Schedule D), each person summoned to serve as a jurymen that his attendance at such sittings is not required, and in case any person so summoned shall attend, after receiving such notice, he shall not be entitled to any fees or mileage for attendance.

Notice to be given to juror.

(6) Where, after the giving of such notice, a jurymen so summoned attends such sittings and the sheriff is satisfied that the notice was not received prior to such attendance and that the jurymen attended in good faith, believing such attendance to be necessary, the sheriff shall allow such jurymen his mileage and fees.

Where juror attends owing to non-receipt of notice.

(7) For sending every notice required by subsection 5 there shall be paid to the sheriff in the same manner and out of the same funds as the fees for the summoning of jurors the sum of twenty-five cents, and necessary disbursements paid by him for each jurymen so notified.

Fees of sheriff for sending notices.

(8) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection 5 unless he is satisfied that there is no prisoner in the common gaol awaiting trial at such sittings.

Sheriff must ascertain that there are no prisoners in custody.

(9) Subsections 2 to 8 shall not apply to any county in which is situate a city having a population of 20,000 or over. R.S.O. 1927, c. 96, s. 62 (3-9).

Exception where county contains a city of 20,000.

**65.** The sheriff shall summon every person drafted to serve on a special jury, in the like manner, three days at the least before the day on which the special juror is to attend. R.S.O. 1927, c. 96, s. 63.

Special jurors to be summoned three days before attendance required.

**66.** Notwithstanding anything in this Act, the proper officer shall summon, in the manner heretofore used and accustomed, every person required to serve upon any inquest or enquiry before a coroner, or before any commissioners appointed under the Great Seal, or under the seal of the

Proper officer to summon jurors whenever required.

Supreme Court, or to serve as a talesman upon any jury. R.S.O. 1927, c. 96, s. 64.

Sheriff indemnified for returning unqualified persons, if in the rolls of jurors.

**67.** Every sheriff is hereby indemnified for empanelling and returning as a grand or petit juror any person named in or taken from the grand or petit jurors' rolls for the year in which he has been summoned, although such person may not have been qualified or liable to serve as a juror for such year. R.S.O. 1927, c. 96, s. 65.

#### EMPANELLING THE GRAND JURY.

If sufficient grand jurors do not appear.

**68.** Where there do not appear as many as thirteen of the grand jurors summoned upon a panel returned upon any precept to any court of criminal jurisdiction, the court, upon the request of the Attorney-General, or of counsel for the Crown, or of the Crown attorney, shall or may *proprio motu* command the sheriff to name and appoint so many persons then present or who can be found, whether on the panel of petit jurors or not, as will make up a grand inquest of thirteen, and the sheriff shall return such persons to serve on such grand inquest, and shall add their names to the panel returned upon such precept, and the court shall proceed with those grand jurors who were before empanelled, together with the talesmen so newly added, as if all such jurors had been originally returned upon such precept. R.S.O. 1927, c. 96, s. 66.

#### DRAWING JURY AT TRIAL.

Empanelling petit jury at the trial.

**69.** The name of every person summoned and empanelled as a petit juror upon the general precept for any sittings of the Supreme Court, the court of general sessions of the peace, or county court, with his place of abode and addition, shall be written by the sheriff distinctly on a card or paper, as nearly as may be of the form and size following, viz.:

<p style="text-align: center;">DAVID BOOTH,</p> <p style="text-align: center;">of Lot No. 11, in the 7th Con. of Albion,</p> <p style="text-align: center;">MERCHANT.</p>
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and the names so written shall, under the direction of the sheriff, be put together in a box or urn to be provided by

him for that purpose, and he shall deliver the same to the clerk of the court. R.S.O. 1927, c. 96, s. 67.

**70.**—(1) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the box or urn to be shaken so as sufficiently to mix the names, and shall then draw out twelve of the cards or papers, one after another, causing the box or urn to be shaken after the drawing of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until twelve jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first twelve jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue, or to assess the damages.

How the clerk is to proceed to draw names.

(2) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury have given in their verdict, and the same has been recorded, or until the jury have been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the box or urn, there to be kept with the other cards or papers remaining therein. R.S.O. 1927, c. 96, s. 68.

Names drawn to be kept apart, etc.

**71.** If an issue is brought on to be tried, or damages are to be assessed, at any such sittings before the jury in any other cause have brought in their verdict, or been discharged, the court may order twelve of the residue of the cards or papers to be drawn for the trial of the issue so brought on to be tried, or for the assessment of damages, as the case may be. R.S.O. 1927, c. 96, s. 69.

If another jury is required before the last drawn have brought in their verdict.

**72.** Notwithstanding sections 70 and 71, where no objection is made on the part of the King, or any other party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the box or urn and redrawn, or may order that any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, shall retire and may cause another name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original jury, and the new jurors who appear and are approved as indifferent. R.S.O. 1927, c. 96, s. 70.

Several causes may be tried in succession by the same jury.

**73.**—(1) Where a full jury does not appear at a sittings of the Supreme Court, or at a sittings of a county court or of the court of general sessions of the peace, or where, after

If a full jury do not appear a tales may be granted.

the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able men of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury.

Adding  
names of  
talesmen.

(2) Where a full jury does not appear the names of the persons so returned shall be added to the panel returned upon the precept. R.S.O. 1927, c. 96, s. 71.

#### ENTRY OF SERVICE OF JURORS.

The sheriff  
to note on  
lists names  
of jurors  
who do not  
serve.

**74.** Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury list from which the panel of grand jurors, if any, returned to such sittings was drafted, and on the jury list from which the panel of petit jurors was drafted, opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. R.S.O. 1927, c. 96, s. 72.

#### CHALLENGES.

Lack of  
qualification.

**75.** If any person not duly qualified is drawn as a juror for the trial of any issue in any matter or proceeding, the want of such qualification shall be a good cause of challenge; but the want of a sufficient property qualification shall not be a good cause of challenge, nor a cause for discharging the juror upon his own application. R.S.O. 1927, c. 96, s. 73.

Exception.

Peremptory  
challenges in  
civil cases.

**76.** In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge shall extend to the King, when a party. R.S.O. 1927, c. 96, s. 74.

Not to apply  
to special  
jurors.

**77.** Sections 75 and 76 shall not apply to special jurors. R.S.O. 1927, c. 96, s. 75.

Ratepayers,  
officers, etc.,  
of corpora-  
tion may be  
challenged  
as jurors.

**78.** In a matter or proceeding to which a municipal corporation other than a county is a party, every ratepayer, and every officer, or servant of the corporation shall, for that reason, be liable to challenge as a juror. R.S.O. 1927, c. 96, s. 76.



## SPECIAL JURIES.

**79.**—(1) In any case whatever, whether civil or criminal, triable by a jury excepting only indictments for treason or felony, His Majesty or any prosecutor, relator or plaintiff and any defendant may have the issues joined tried by a special jury upon procuring such special jury to be struck and summoned for the day on which the trial of such case is to be had, and the jury so struck shall be the jury returned for the trial of the issues. Either party may strike a special jury.

(2) The party desiring the special jury shall give notice in writing thereof to the opposite party, after the close of the pleadings and at least eight days before the first day of the sittings at which the case is to be tried. Notice to opposite party.

(3) Upon the application of any party the court or a judge may at any time make an order for a special jury upon such terms as to costs and otherwise as may be deemed just. Order for special jury.

(4) Where notice has been given to try by special jury, either party may, at least six days before the first day of the sittings at which the case is to be tried, give notice to the sheriff that the case is to be tried by a special jury, and if no such notice is given no special jury need be struck or summoned, and the case may be tried by a common jury, unless otherwise ordered by the court or a judge. Notice to sheriff.

(5) The sheriff shall thereupon, in writing, appoint some convenient day and hour for striking the special jury, sufficiently distant to enable the party requiring the special jury to give notice to the opposite party, and the party requiring the same shall serve a copy of such appointment upon the opposite party or his solicitor four clear days before the day so appointed, and in default thereof the sheriff shall not proceed to strike the special jury. Appointment for striking special jury.

(6) If a party does not attend, in person or by solicitor, at the striking of the special jury, the sheriff, upon proof of service of the appointment, and after waiting half an hour for the absent party, shall, if requested by the other party, or his solicitor, proceed to strike the special jury, and in case of the continued absence of such first mentioned party, the sheriff shall, on his behalf, strike off the list the twelve names which such party is entitled to strike off the list as hereinafter provided. R.S.O. 1927, c. 96, s. 77. How to proceed if either party fails to attend.

**80.** A special jury shall, except as hereinafter provided, consist of persons whose names appear on the roll of grand jurors for the Supreme Court or on the roll of grand jurors Qualifications of special juries.

for the inferior courts for the year in which the notice to the sheriff is given. R.S.O. 1927, c. 96, s. 78.

How a  
special jury  
is to be  
struck.

Ballots to  
be prepared.

**81.** A special jury shall be struck in the following manner:

(a) The sheriff shall provide as many ballot papers of uniform and convenient size as there are names on the two grand jurors' rolls from which the special jury is to be struck, and the whole of the numbers on such grand jurors' rolls shall be printed or written upon such ballot papers respectively, allowing one number to each ballot paper, and distinguishing each number by the letters S.C. or I.C., according as it belongs to the roll of grand jurors for the Supreme Court, or to the roll of grand jurors for the inferior courts;

Drawing  
special  
jurors.

(b) At the office of the clerk of the peace, at the time appointed, in the presence of the parties or their solicitors or such of them as attend, the sheriff shall put all the ballot papers in a box or urn, and after having caused it to be shaken so as to sufficiently mix the ballot papers, he shall openly draw from the box or urn forty of the numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the grand jurors' roll to which the ballot paper belongs, and read aloud the name to which the number is appended in the roll;

Objection to  
jurors drawn.

(c) If, at the time of reading a name, either party, or his solicitor, objects that the person whose name has been drawn is disqualified or incapacitated from serving on the jury, and proves the same to the satisfaction of the sheriff, the name shall be set aside, and the sheriff shall instead thereof openly draw another ballot paper, and shall in like manner refer to the corresponding number in the grand jurors' roll to which the ballot paper belongs, and read aloud the name to which the number is appended in the roll, and such name may be in like manner set aside, and other names may be drawn according to the mode of proceeding hereinbefore prescribed for the purpose of supplying names in the places of those set aside until the whole number of forty names not liable to be set aside is completed;

If forty  
names  
cannot be  
obtained.

(d) Where forty names cannot be obtained from the grand jurors' rolls, the sheriff shall, in like manner,

from the grand jurors' rolls in the jurors' book of the nearest year for which there is a jurors' book or a certified copy thereof in the office of the clerk of the peace select by ballot, in addition to those already taken from the first mentioned grand jurors' rolls, the number of names required to make up the full number of forty names;

- (e) The sheriff shall thereupon make a list of the forty names, together with the places of abode and additions of the persons selected, from which list, after a reasonable time allowed in the discretion of the sheriff for inquiry and consideration respecting the same, each party, or his solicitor, shall strike off twelve names, the names being so struck off by the parties, one by one alternately, the party who has given the notice to the sheriff commencing;  
Sheriff to make lists of names chosen on ballot.
- (f) The sheriff shall summon to appear on the day appointed for the trial of the case and shall return upon the notice served upon him for the special jury the sixteen persons whose names remain upon the list, and shall file such notice and return with the clerk of the court before which the trial is to take place;  
The sixteen jurors to be summoned.
- (g) From the sixteen persons, or so many of them as appear in obedience to the summons, a special jury for the trial of the case shall be drawn in the manner prescribed by section 70 for the drawing of petit jurors. R.S.O. 1927, c. 96, s. 79.  
How special juries formed.

**82.** Immediately after the striking of the special jury the sheriff shall certify the sum required to pay for the attendance of the jurors for three days, and the allowance for mileage and sheriff's fees; and the party who has given the notice requiring the special jury, or if he has made default in attending to strike the special jury, then the party who has requested the sheriff to proceed under subsection 6 of section 79 shall forthwith deposit with the sheriff the sum so certified as sufficient to pay such expenses as aforesaid, but nothing herein contained shall limit the payment required to be made to the jurors to the sum so deposited. (See Consolidated Rules of Practice, 1928, Tariff C, Item 6). R.S.O. 1927, c. 96, s. 80; 1929, c. 31, s. 3.  
Party requiring special jury to deposit expenses of jury with sheriff.

**83.** In the event of a new trial being ordered after the verdict of a special jury, the notice to the sheriff mentioned in subsection 4 of section 79 shall set forth the names of the jurors who sat on the first trial, or if more trials than one  
Same jury-men not to be returned or sit on new trial.

have been previously had, the names of all the jurors who so sat upon any of such trials, and none of the jurors who sat upon a former trial shall be returned or sit as jurors upon any subsequent trial of the same case. R.S.O. 1927, c. 96, s. 81.

In special jury cases talesmen to be taken from the general panel.

**84.** Where a special jury has been struck the talesmen, if any be required, shall be selected from the jurors empanelled upon the petit jury panel to serve at the same court if a sufficient number can be found, and the King and every party shall have and may exercise their respective challenges to the talesmen so added. R.S.O. 1927, c. 96, s. 82.

#### COSTS OF SPECIAL JURIES.

The party who gives notice for the jury to pay fees of striking, etc.

**85.** The party who gives notice to the sheriff for a special jury, or the party who upon his default has requested the sheriff to proceed under subsection 6 of section 79 shall pay the fees for striking such special jury, the fees of the jurors and all the expenses occasioned by the trial by the special jury, and shall not have any further or other allowance for the same upon taxation of costs than if the case had been tried by a common jury, unless the trial judge certifies in open court, immediately after the verdict, or afterwards upon notice at chambers, that the case was proper to be tried by a special jury. R.S.O. 1927, c. 96, s. 83.

Costs where special jury summoned but cause not tried.

**86.** If a case in which a special jury has been summoned be not tried, the party who required the special jury shall not have any further or other allowance for the same, upon taxation of costs, than if the jury had not been summoned, unless a judge, upon notice to the opposite party, certifies that the case was proper to be tried by a special jury. R.S.O. 1927, c. 96, s. 84.

#### VIEW BY JURORS.

View by jurors.

**87.**—(1) Where in an action, whether the same is to be tried by a special or by a common jury, it appears to the presiding judge that in order to the better understanding of the evidence the jurors who are to try the issues ought to have a view of the place or of the real or personal property in question, whether the same be within or without the county in which the trial is to take place, he may at any time after the jurors have been sworn and before they give their verdict order that the jurors shall have such view.

Terms of order.

(2) The order may be made on such terms as to costs and the adjournment of the trial and otherwise as may be deemed



just, and shall contain directions to the sheriff as to the manner in which and the persons by whom the place or the property in question shall be shewn to such jurors and any other directions which under the circumstances the judge may think proper. R.S.O. 1927, c. 96, s. 85.

#### MISCELLANEOUS PROVISIONS.

**88.** The omission to observe any of the directions in this Act as respects the qualification, selection, balloting and distribution of jurors, the preparation of the jurors' book, the selecting of jury lists from the jurors' rolls, the drafting of panels from the jury lists, or the striking of special juries shall not be a ground of impeaching the verdict or judgment in any action. R.S.O. 1927, c. 96, s. 86.

Omissions to observe the directions of this Act not to vitiate the verdict.

**89.**—(1) No person shall be liable to be summoned or empanelled to serve as a juror upon any inquest or inquiry to be taken or made by or before any commissioners appointed under the Great Seal, or the seal of any court having general jurisdiction throughout Ontario or throughout any county, unless the name of such person appears upon the jurors' rolls for the year in which such person is called upon to serve on such inquest or inquiry.

No person to be summoned whose name is not on the roll of jurors.

(2) This section shall not extend to an inquest to be taken by or before a coroner, by virtue of his office, or to an inquest or inquiry to be taken or made by or before a sheriff, coroner, or high bailiff. R.S.O. 1927, c. 96, s. 87.

Exception; coroners' juries, etc.

**90.** The several writs of *venire facias juratores* and *dis-tringas juratores* and *habeas corpora juratorum* and the writ *de ventre inspiciendo* shall no longer be necessary or be used. R.S.O. 1927, c. 96, s. 88.

Jury writs abolished.  
Imp. C.L.P. Act 1852, s. 104.

#### FEES OF JURORS.

**91.**—(1) Every grand juror actually attending a sittings of the Supreme Court or of the court of general sessions of the peace, and every petit juror actually attending a sittings of the Supreme Court or of the court of general sessions of the peace or a county court shall be entitled to receive the sum of \$4 per day for every day on which he is necessarily absent from his place of residence for the purpose of attending such court, and the sum of thirteen cents for every mile he necessarily travels from his place of residence to the court.

Jurors' fees and mileage.

How  
ascertained.

(2) The distance travelled shall be ascertained by the declaration of the sheriff's bailiff who summoned the juror or by the declaration of the juror himself; but every juror who makes a false declaration respecting such distance shall forfeit his right to receive any payment for travelling to or attending such court as a juror.

Jurors  
attending on  
Saturdays  
and Mon-  
days to be  
paid for  
Sunday.

(3) Where a grand or petit juror who does not reside in the county town actually attends the sittings of the court as such juror on Saturday and on the Monday following he shall be entitled to be paid for the intervening Sunday.

When jurors  
may be paid  
although  
attendance  
not required.

(4) Where petit jurors are in attendance at the court and are informed by the presiding judge that their attendance will not be required for one or more days, or where a grand jury adjourns for a period of one or more days, the jurors shall be paid for the first and second days of such period during which they are absent, but jurors who reside in the county town shall not be entitled to be paid for a Sunday.

Mileage in  
lieu of pay.

(5) In lieu of such pay for Sundays or other days in subsections 3 and 4 mentioned, the juror may have mileage for going to and returning from his place of residence if there is a by-law of the county council authorizing such mileage.

Council may  
increase pay.

(6) In a county, the county council, and in a provisional judicial district, the Lieutenant-Governor in Council, may increase the per diem allowance to jurors to any sum not exceeding \$5. R.S.O. 1927, c. 96, s. 89.

Sheriff to  
make a pay  
list for petit  
jurors.

**92.**—(1) The sheriff shall make a pay list for the petit jurors, Schedule C, and shall attend or cause some officer to attend at the opening of the court, on every day on which the court sits for the trial of actions by jury, and upon the petit jurors being called, shall check and mark the word "present" or "absent," as the case may be, in the proper column of the list opposite the name of every juror, and on the last day of the sittings of the court shall certify and return the pay list to the treasurer of the county, and the treasurer shall forthwith pay to every petit juror the sum to which he appears by the list to be entitled.

Treasurer to  
pay the  
jurors.

County court  
and general  
sessions to  
be deemed  
one court.

(2) The county court and the court of general sessions of the peace shall for the purposes of this section be deemed to be one court, and the duty of calling the jurors at the opening of the court shall be performed by the clerk of whichever court is first opened. R.S.O. 1927, c. 96, s. 90.

Allowance to  
sheriffs.

**93.**—(1) The sheriff shall be entitled to receive from the treasurer of the county such sum for the pay list and such

sum per diem for checking and for certifying and returning the same to the treasurer as in the case of a county the county council by by-law determines, and in the case of a provisional judicial district as the Lieutenant-Governor in Council determines.

(2) Where such sums have not been fixed under subsection 1 the sheriff shall be entitled to receive from the treasurer of the county or district \$1 per day for checking the jury panel and \$1 for certifying and returning the list to the treasurer. R.S.O. 1927, c. 96, s. 91.

Sheriff's fee for checking panel and returning list.

**94.** The marshal or the clerk of the court, or the clerk of the peace, as the case may be, shall, at the opening of the court, and before any other business is proceeded with, call the names of the petit jurors, so that the sheriff or his officer may check off those who are present or absent. R.S.O. 1927, c. 96, s. 92.

List of jurors to be called.

**95.** A petit juror not appearing when called shall not be entitled to pay for the day on which he makes default. R.S.O. 1927, c. 96, s. 93.

Jurors not attending not to be paid.

**96.** Special jurors shall receive the same allowances and mileage as petit jurors are entitled to under section 91. R.S.O. 1927, c. 96, s. 94.

Allowances to special jurors.

#### FUND FOR PAYMENT OF JURORS.

##### *Fees on Entry of Records.*

**97.**—(1) With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, the sum of \$3, and in the county court to the clerk of the county court the sum of \$1.50, and the record shall not be entered unless such sum is first paid.

Sums to be paid with record when entered for trial in jury cases.  
Record not to be entered unless sum is paid.

(2) Such sum in the case of a county shall be forthwith paid over to the treasurer of the county, and shall form part of the fund for the payment of petit jurors, and in the case of a district shall be forthwith paid over to the treasurer of the district and shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 96, s. 95.

How to be dealt with.

*Fines and Penalties.*

Certain fines to go towards payment of jurors.

**98.** All fines imposed upon jurors for non-attendance shall in the case of a county be paid to the treasurer of the county, and shall form part of the fund for the payment of petit jurors, and in the case of a district shall be paid to the treasurer of the district and shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 96, s. 96.

*County Councils to Supply Deficiency.*

County councils to provide funds for paying jurors.

**99.** If the sums appropriated by this Act are not sufficient to pay the petit jurors, the county council shall raise and appropriate such sum of money as will be sufficient to pay them. R.S.O. 1927, c. 96, s. 97.

## FEES TO OFFICERS UNDER THIS ACT.

*1.—Selectors.*

Fees to the local selectors.

**100.** The local selectors for every selection and distribution of jurors, and the report thereof, shall be entitled to such sum as is authorized by the council of the municipality, and, upon receipt of a certificate from the clerk of the peace that the report has been returned to him within the time fixed by this Act, such sum shall be paid to them by the treasurer of the municipality. R.S.O. 1927, c. 96, s. 98.

Fees of county selectors.

**101.**—(1) The county selectors shall be entitled to the sum of \$4 each for each day's attendance in the performance of their duties under this Act, but when the number of grand and petit jurors to be selected does not exceed five hundred no selector shall be entitled to be paid for a greater number of days than four.

Additional fees.

(2) When the number to be selected exceeds five hundred each selector actually attending shall be entitled to be paid as for one additional day for every two hundred additional names selected, and no more.

Payment.

(3) Upon receipt of a certificate from the clerk of the peace that the duties required of the county selectors have been duly performed by them, such sum shall be paid by the treasurer of the county to every such selector, and the clerk of the peace shall be paid for his attendance at the meeting of the county selectors the same fees as a county selector. R.S.O. 1927, c. 96, s. 99.



2.—*Clerks of the Peace.*

**102.** The clerk of the peace shall be entitled to the following fees: Fees to clerks of the peace.

- 1. For receiving, examining and filing the reports of the local selectors for each municipality, and causing any deficiency found therein to be supplied..... \$ .50
- 2. For giving certificates to selectors of jurors, of duties having been performed; but only one certificate for all the selectors for each municipality shall be given..... .50
- 3. For preparing and superintending the making up of each jurors' book (besides actual disbursements for stationer's charges) 3.00
- 4. For making up jurors' books, entering all the names and numbers, and all other matters required to be entered therein, per one hundred names..... 2.00
- 5. For each copy of the jurors' book required by this Act, per one hundred names..... 2.00
- 6. For each certificate required to be entered in the jurors' book. 1.00
- 7. For copy of jury list required to be entered, per one hundred names..... 2.00
- 8. For each panel of jurors drafted from the jury list, per one hundred names on each jury list..... 2.00
- 9. For entering each panel in the jurors' book, with the numbers corresponding to the jury list..... 2.00
- 10. For making up aggregate return in detail of jurors..... 5.00
- 11. For copy thereof, and transmitting same to Provincial Secretary when required..... 2.00
- 12. For each office copy of the same..... 2.00

R.S.O. 1927, c. 96, s. 100.

3.—*Sheriffs.*

**103.** The sheriff, in addition to such fees as he may be entitled to from the parties to an action, shall be entitled to the following fees: Sheriff's fees.

- 1. For each panel of jurors, grand or petit, returned and summoned by him in obedience to any general precept..... \$5.00
- 2. For copies of such panel to be transmitted to the proper officers, each..... 2.00
- 3. For every summons served upon the jurors on any panel.. .50
- 4. For every mile which the sheriff or his deputy or bailiffs necessarily and actually travelled from the county town for the purpose of serving such summonses (such mileage to be allowed for going only, and not for returning)..... .20
- 5. Advertising the drafting of jury panels (required by section 58). 2.00
- 6. Notices to clerk of the peace and justices (required by section 58), each..... .50
- 7. Attending to draft jury panels..... 5.00
- 8. Writing names of jurors on cards..... 4.00
- 9. For every notice to jury not to attend, section 64 (7)..... .25
- 10. Attending, locking up or feeding petit juries, or taking grand jurors to inspect institutions (exclusive of disbursements).  
For each jury..... 4.00

11. For each daily checking of jury panel (section 93)..... \$1.00
12. For certifying and returning list of jury panel to treasurer (section 93)..... 1.00
13. When sheriff acts as county selector of juries per diem (section 101)..... 4.00

*(Item 4 shall not apply where the summonses to jurors are mailed to them as provided by this Act.)*

R.S.O. 1927, c. 96, s. 101; 1929, c. 31, s. 4, *part.*

#### MODE OF PAYMENT.

If there are more than one hundred names.

**104.** In the cases provided for by sections 101 and 102, where there are more than one hundred or more than an even number of hundreds of such names, if the broken number beyond the hundred or hundreds falls short of fifty names, the same shall not be reckoned, and if the broken number amounts to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred. R.S.O. 1927, c. 96, s. 102.

How the said fees shall be paid.

**105.**—(1) Upon proof by affidavit of the services having been performed and upon the account being audited and an order of the board of audit being made for payment, the treasurer of the county shall pay to such officers the amount of their fees.

Affidavits as to mileage.

(2) In the case of a sheriff's account there shall be annexed to the affidavit a detailed statement showing the number of miles actually and necessarily travelled in effecting service of the summons on each juror, so that at the end of the journey upon which the services were made the officer summoning the jury shall be entitled to mileage only for the number of miles actually travelled. R.S.O. 1927, c. 96, s. 103.

#### PENALTIES.

Penalty on jurors for non-attendance.

**106.** If a person, having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name; or if a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court, the court may impose such fine upon the juror or talesman as may be deemed proper. R.S.O. 1927, c. 96, s. 104.

**107.**—(1) If a person having been duly summoned and returned to serve as a juror upon an inquest or inquiry before a sheriff or coroner, or before any of the commissioners mentioned in section 66, does not, after being openly called three times, appear and serve, the sheriff, coroner or commissioners may impose such fine, not exceeding \$20, upon the person so making default as may be deemed proper.

Penalty on jurors failing to attend upon inquests and inquiries, etc.

(2) The sheriff, coroner or commissioners shall make out and sign a certificate containing the name, the residence and addition of every person so making default, together with the amount of the fine imposed and the cause of the fine, and transmit the certificate to the clerk of the peace for the county in which the defaulter resides, on or before the first day of the sittings of the court of general sessions of the peace next ensuing.

Sheriff to certify defaults and transmit copies.

(3) The clerk of the peace shall enter the fine so certified on the roll on which fines and forfeitures imposed at the court of general sessions are entered, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if it had been a fine imposed at a sittings of the court of general sessions of the peace. R.S.O. 1927, c. 96, s. 105.

Fines to be estreated.

**108.** If a sheriff wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner in this Act prescribed, or if a registrar, clerk of the peace, or other officer wilfully records the appearance of any person so summoned and returned who has not really appeared, the court may, upon examination in a summary way, impose such fine upon the sheriff, clerk of assize, clerk of the peace, or other officer as may be deemed proper. R.S.O. 1927, c. 96, s. 106.

Penalties on sheriffs, etc., for default to perform duties assigned to them.

**109.** No sheriff or other officer or person shall, directly or indirectly, take or receive money or other reward or promise of money or reward, to excuse any person from serving or being summoned to serve as a juror, and no bailiff or other officer appointed by a sheriff to summon jurors shall summon or pretend to summon any person to serve as a juror other than those whose names are specified in a warrant or mandate signed by such sheriff and directed to such bailiff or other officer, and if a sheriff or other officer wilfully transgresses in any of such cases, the Supreme Court, the court of general sessions of the peace or county court within whose jurisdiction the offence has been committed may impose upon the person so offending such fine as may be deemed proper. R.S.O. 1927, c. 96, s. 107.

On sheriffs, etc., taking money as a bribe.

On sheriffs,  
etc., making  
any  
unauthorized  
alteration in  
any jurors'  
book, or  
neglecting to  
return the  
same, etc.

**110.**—(a) If a sheriff or deputy sheriff makes, or causes to be made, any alteration in any of the rolls, lists or panels in any jurors' book, or in the certified copies thereof in his official custody, except in compliance with the directions of this Act, or neglects or refuses to prepare the jurors' book, the ballot papers necessary for drafting the panels, striking special juries and drawing juries at the trial, or neglects or omits to return the juror's book and the ballot papers for drafting the jury lists to the court to which he is required to return the same, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with the provisions of this Act; or

On registrars  
altering  
lists, etc.

(b) If a registrar or local registrar of the Supreme Court makes, or causes to be made, any alteration in the rolls, lists or panels in any jurors' book, or in any copy thereof deposited in his office, or wilfully certifies as true any copy of a jurors' book, or any roll, list or panel therein, which is not a true copy thereof; or

On municipal  
officer not  
producing  
assessment  
roll as  
required.

(c) If a clerk of a local municipality, or any assessment commissioner, assessor or other officer or person who, at the time of the annual meeting of the local selectors has the actual charge or custody of the assessment roll of such municipality for such year, neglects or omits to perform the duties required of him by section 16; or

On selectors  
of jurors for  
wilful dereliction  
of duty.

(d) If a local selector wilfully selects, ballots and reports as qualified and liable to serve as a grand or petit juror any person who, according to the provisions of this Act, ought not to be so selected, balloted or reported, or takes money or other reward for selecting, balloting or reporting, or omitting to select, ballot or report any person, or wilfully inserts in such report a wrong description of the name, place of abode, or addition of any person so selected, balloted and reported, or neglects or omits to complete his selection, ballot and report, and to deposit the same in the proper office on or before the 25th day of October of the year for which he acts as local selector; or

On clerks of  
peace for  
wilful dereliction  
of duty.

(e) If a clerk of the peace neglects or omits to perform any duty required of him in the manner herein prescribed, or wilfully does anything inconsistent with the provisions of this Act;

Amount of  
penalty and  
how to be  
applied.

The person so offending shall for each offence forfeit the sum of \$200, one moiety whereof shall be paid over to the treasurer of the county, and shall form part of the fund for the payment of petit jurors, and the other moiety thereof,



with full costs, to any person who sues for the same in any court of competent jurisdiction; and every such action shall be tried by the judge without the intervention of a jury, and when the same has been commenced in the county court the judge of the county court shall, upon the application of either party thereto by his order direct that the same shall be tried at a sittings of the Supreme Court, and the record may thereafter be entered and the action tried at such sittings. R.S.O. 1927, c. 96, s. 108.

**111.** All penalties under this Act, for which no other remedy is given, may be recovered on summary conviction under *The Summary Convictions Act*. R.S.O. 1927, c. 96, s. 109. Recovery of penalties. Rev. Stat., c. 136.

**112.**—(1) It shall be a contempt of court for any person interested in an action in any court, or his solicitor, counsel, agent or emissary before or during the sittings of court at which the action is, or is to be, entered for trial or may be tried, or at any time after a juror has been summoned, knowingly, directly or indirectly to speak to or consult with a juror upon the jury panel for such court respecting such action, or any matter or thing relating thereto. Tampering with jurors.

(2) Where a solicitor or barrister or student at law or articled clerk is guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Attorney-General. Barrister, solicitor or student to be disbarred or suspended.

(3) This section shall not apply where a juror is also a party to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything which may properly take place in the course of the trial or conduct of the action. R.S.O. 1927, c. 96, s. 110. Exception where juror is a party or witness.

#### GENERAL PROVISIONS.

**113.** It shall be the duty of the sheriff at the sittings of the Supreme Court for trials by jury and the court of general sessions of the peace to post up in the court room and jury rooms and in the general entrance hall of the court house, printed copies in conspicuous type of section 180 of the *Criminal Code*. R.S.O. 1927, c. 96, s. 111. Posting up copies of sec. 180 of Criminal Code. R.S.C. c. 36.

Saving of former powers of court and judges except as altered.

114. Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions hereof. R.S.O. 1927, c. 96, s. 112.

SCHEDULES OF FORMS.

SCHEDULE A.

(Section 22.)

REPORT OF LOCAL SELECTORS FROM ASSESSMENT ROLL.

Report of the selection and distribution of jurors for the municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, for the year 19\_\_\_\_, made by \_\_\_\_\_, Mayor (or Reeve), and \_\_\_\_\_, Clerk, and by \_\_\_\_\_ and \_\_\_\_\_, Assessors (or by \_\_\_\_\_, Assessment Commissioner, and \_\_\_\_\_ and \_\_\_\_\_, Assessors, as the case may be), of the municipality, on the day of \_\_\_\_\_, 19\_\_\_\_, pursuant to the directions of *The Jurors Act*. (See note 1.)

FIRST DIVISION.

*For the Roll of Grand Jurors to serve in the Supreme Court of Ontario.*

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Village or Hamlet, where known to the Selectors.	OCCUPATIONS.
John Anderson.....	16	2	Esquire.
Peter Cameron.....	4	6	Yeoman.
William O'Leary.....	...	Oatlands.	Gentleman.
Alfred Piper.....	17	1	Esquire.
etc.			

SECOND DIVISION.

*For the Roll of Grand Jurors to serve in His Majesty's Inferior Courts of Criminal Jurisdiction.*

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Village or Ham- let, where known to the Selectors.	OCCUPATIONS.
William Adams.....	9	4	Gentleman.
Richard House.....	7	5	Yeoman.
Allan Thomas.....	24	5	Esquire.
Jacob Wyse.....	2	1	Tailor.
etc.			

THIRD DIVISION.

*For the Roll of Petit Jurors to serve in the Supreme Court of Ontario.*

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Village or Ham- let, where known to the Selectors.	OCCUPATIONS.
David Boothe.....	11	7	Merchant.
Henry Grace.....	..	7	Yeoman.
Nathan Lowe.....	6	1	Shoemaker.
George Sullivan.....	3	4	Esquire.
etc.			

## FOURTH DIVISION.

*For the Roll of Petit Jurors to serve in His Majesty's Inferior Courts of Criminal and Civil Jurisdiction.*

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Village or Ham- let, where known to the selectors.	OCCUPATIONS.
William Carpenter.....	7	2	Esquire.
George Gule.....	7	8	Tailor.
Samuel Jones.....	15	3	Yeoman.
Thomas Hoole Rogers.....	11	1	Gentleman.
etc.			

We, the above-named local Selectors for the Municipality of \_\_\_\_\_, solemnly declare, each for himself, that we have made the selection and distribution of Jurors in this Report from the Assessment Roll of the municipality for the present year, to the best of our judgment and information, pursuant to the directions of *The Jurors Act*, and that we have so made the same without fear, favour or affection of, to or for any person or persons whomsoever, gain, reward, or hope thereof, other than the fees to which we are entitled under the provisions of that Act.

Witness our hands and seals, the day and year last above written.

*A. B.* [L.S.] Mayor *or* Reeve.  
*C. D.* [L.S.] Clerk.  
*E. F.* [L.S.] Assessment Commissioner.  
*G. H.* [L.S.] Assessor.  
*I. J.* [L.S.] Assessor.

R.S.O. 1927, c. 96, Sched. A.



## SCHEDULE B.

(Section 24.)

## JURORS' BOOK.

The JURORS' BOOK for the County of , for the year 19 .

(See note 1.)

## 1.—ROLL OF GRAND JURORS.

To serve in the Supreme Court of Ontario.

(See note 2.)

No. on Roll.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Ham- let.	OCCUPATIONS	No. on List.	REMARKS.
	1 KING, (Township).					
1	Anderson, John...	16	..	Esquire.		Exempted, having served on G. J. List S.C., 19
2	Aylof, Graham....	9	4	Gentleman.		
3	Bosworth, David..	11	7	Merchant.		
4	Cameron, Peter... (Etc., to, say)	4	6	Yeoman.		
20	Young, David....	7	8	Tailor.	3	
	2 MARKHAM, (Township.)					
21	Allan, Simon.....	21	7	Yeoman.		
22	Bolland, George... (Etc., to, say)	5	12	Gentleman.	2	
31	Wilkinson, James.	13	4	Esquire.		
32	Yates, Edward....	1	5	Yeoman.	144	
	3 NEWMARKET (Town.)					
	4 TORONTO, (City.)					
	26 YORK, (Township.)					
503	Arthur, Thomas...	3	2 from Bay	Yeoman.	1	
504	Bull, Peter.....	14	1 E.Y'ge St	Yeoman.		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of , for the year 19 , as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all



No. on Panel.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Hamlet.	Municipality.	Occupations	No. on Lists.	Remarks
1	Arthur, Thomas	3	2 From Bay,	York.	Yeoman.	1	
2	Bolland, George	5	12	Markham.	Gentleman.	2	
24	Yates, Edward.	1	5	Markham.	Yeoman.	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.  
K. L., J. P.  
M. N., J. P.

No. 2. (See note 4), etc.

4.—ROLL OF GRAND JURORS.

To serve in His Majesty's Inferior Courts (see note 2), of Criminal Jurisdiction. (See note 3.)  
(Continue as in Form 1, substituting in the certificate for the words "Supreme Court" the words "Inferior Courts of Criminal Jurisdiction.")

Witness my hand, this                      day of                      19                      .  
E. F., Clerk of the Peace.

5.—THE GRAND JURY LIST.

FOR the Inferior Courts (see note 2), as selected by the County Selectors, for the County of                      , on                      the                      day of                      , 19                      , pursuant to the directions of *The Jurors Act*.  
(Continue as in Form 2, substituting in the certificate for the words "Supreme Court" the words "Inferior Courts of Criminal Jurisdiction.")

Witness our hands, this                      day of                      , 19                      .  
C. D., Chairman.  
E. F., Clerk of the Peace.

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS.

(See note 2.)

No. 1.

PANEL of Grand Jurors returned upon a Precept from the Presiding Judge of the Court of General Sessions of the Peace for the County or District of                      , tested the                      day of                      , 19                      , for the return of thirteen of such Jurors for the Sittings of the Court of General Sessions of the Peace, to be held, etc.

Continue as in Form 3.

## 7.—ROLL OF PETIT JURORS.

To serve in the Supreme Court of Ontario. (*See notes 2 and 3.*)

No. on Roll.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Ham- let.	Occupations	No. on List.	Remarks to be filled in by Sheriff, see sec. 74.
	1 KING, (Township.)					
1	Adams, George...	16	2	Esquire.		
2	Aikins, William...	21	7	Yeoman.	2	
3	Alley, Simon.....	25	3	Yeoman.		
4	Ashford, Thomas...	19	5	Yeoman.	3	
5	Barclay, John....	5	5	Gentleman.	1	
6	Cameron, William.	11	7	Merchant.	5	
7	Daniels, George...	9	2	Shoemaker.	4	
8	Parley, Peter.....	4	6	Yeoman.		
9	Small, William....	22	11	Yeoman.	6	
	( <i>etc., to say</i> )					
10	Worth, David....	7	8	Tailor.	7	
1060	Yarrold, George...	14		Baker.	288	
	2 MARKHAM, (Township.) etc.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the local Selectors for the municipalities in the County of \_\_\_\_\_, for the year 19\_\_\_\_, as such Reports remained with me as Clerk of the Peace on the 25th day of October of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors for such county in the Supreme Court.

Witness my hand, this

day

\_\_\_\_\_, 19\_\_\_\_.  
E. F., Clerk of the Peace.



8.—THE PETIT JURY LIST.

For the Supreme Court of Ontario (*see note 2*), as selected for the county  
of \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, pursuant to the directions of *The Jurors Act*.

No. on List.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Ham- let.	Residence.	Occupations	No. on Roll.	No. of Panel.	Remarks to be filled in by Sheriff, see sec. 74.
1	Adams, George..	5	5	King.	Gentleman.	5		
2	Alley, Simon....	21	7	King.	Yeoman.	2	1	
3	Ashford, Thomas	2	19	King.	Yeoman.	4		
4	Barclay, John...	19	8	King.	Shoemaker.	7		
5	Daniel, George...	9	5	King.	Merchant.	6		
6	Worth, David... ( <i>etc., to say</i> )	11	16	King.	Yeoman.	9		
188	Yarrold, George.	14	9	King.	Baker.	1060	1	

These are to certify that on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the foregoing Petit Jury List for the County of \_\_\_\_\_ for the Supreme Court for the year 19\_\_\_\_, was duly selected from the Roll of Petit Jurors to serve in the Supreme Court for the same year, pursuant to the directions of *The Jurors Act*.

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C. D., Chairman.  
.E F., Clerk of the Peace.

9.—PETIT JURY PANELS.

FOR the Supreme Court of Ontario. (See note 2.)

No. 1.

PANEL of Petit Jurors returned upon the Precept from the Honourable G.H., the Honourable J.J., etc., Justices of the Supreme Court, tested the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, for the return of such Jurors, for the Sittings of the High Court of Justice (or as the precept may require) to be held for the County of \_\_\_\_\_, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as drafted on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the office of the Clerk of the Peace in \_\_\_\_\_, by A.B., Esquire, Sheriff, in the presence of K.L. and M.N., Esquires, Justices of the Peace for the County, pursuant to the directions of *The Jurors Act*.

No. of Panel.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Hamlet.	Municipality.	Occupations	No. on List	Remarks.
1	Alley, Simon . . . (etc., to say)	21	7	King.	Yeoman.	2	
48	Yarrold, George	14	9	King.	Baker.	288	

Witness our hands, the day and year last above written.

A. B., Sheriff.  
K. L., J. P.  
M. N., J. P.

No. 2. (See note 4.)

10.—SPECIAL JURY PANEL.

(Section 79.)

No. 1. (See note 2.)

PANEL of Special Jurors returned upon a Notice to the Sheriff in an action in the Supreme Court between N.O., Plaintiff, and P.Q., Defendant, as struck at the office of the Clerk of the Peace, in Toronto, on                   , the                   , day of                   , 19                   , by A.B., Esquire, Sheriff, in the presence of R.S., Solicitor for the Plaintiff, and T.A., Agent for the Solicitor of the Defendant (or in the presence of R.S., Solicitor for the Plaintiff, the Defendant's Solicitor, though served with the appointment, not appearing), pursuant to the directions of *The Jurors Act*.

No. of Panel.	NAMES.	No. of Lot or House.	Concession or Street, or Village or Hamlet.	Municipality.	Occupation	No. on Grand Jurors' Rolls.	Remarks
1	Abbott, William	11	9	King.	Gentleman.	I.C. 31	From G. J. Roll for S. C. for year 19                   . No. 10, the G. J. Roll for this year being exhausted.
2	Wilkins, James..	13	4	Markham	Esquire.		
16	Young, David...	7	8	King.	Tailor.	S.C. 20	

Witness my hand, the day and year last above written.

A. B., Sheriff.  
R.S.O. 1927, c. 96, Sched. B.

No. 2. (See note 4.)

NOTE.—The corresponding Forms for the Inferior Courts of Civil and Criminal Jurisdiction shall be with appropriate changes Forms 7 to 10.

NOTES TO FORMS IN SCHEDULES A AND B.

- (1) *This Title to be placed at the head of each page of the Book.*
- (2) *So much of this Sub-Title as ends with this word to be placed at the head of each page of the Book appropriated to this class of entries.*
- (3) *This Roll to be commenced on a new page, after leaving a sufficient number of leaves for the Jury List to be selected from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.*
- (4) *The subsequent Panels following immediately may be commenced on the same page on which the preceding one is closed.*

SCHEDULE C.  
(Section 92)

PAY LIST for Petit Jurors who have attended the Sittings of the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and ended on the \_\_\_\_\_ day (as the case may be), held for the \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_.

NAMES OF JURORS.	Number of miles travelled in coming to Court.	Check of Attendance.								Amount to be paid to Juror.		Jurors' signature acknowledging receipt of money.
		1st day.	2nd day.	3rd day.	4th day.	5th day.	6th day.	7th day.	8th day.	\$	cts.	
John Just.....	21	present	present	present	present	present	present	present	present			
Charles Careless.....	.....	absent	absent	absent	absent	absent	absent	absent	absent			

I, \_\_\_\_\_, Sheriff of \_\_\_\_\_, do hereby certify to the Treasurer of the \_\_\_\_\_, that the above is to the best of my knowledge, a correct return of the number of miles travelled by each Juror in coming to the Court; a true check of the number of days every such Juror attended the Court, and the just sum to which every Juror on the above list is entitled.

A. B., Sheriff.

R.S.O. 1927, c. 96, Sched. C.



## SCHEDULE D.

## FORM 1.

In the Supreme Court of Ontario.

(Section 43.)

George the Sixth, by the Grace of God, King, &c.

Ontario  
County (or District) of

To Wit:

To the Sheriff of the \_\_\_\_\_ of \_\_\_\_\_

You are commanded that you cause to come before the Judge or other person holding the sittings of the Supreme Court (or County or District Court) (or the Court of General Sessions of the Peace) at \_\_\_\_\_ in your Bailiwick, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, all panels concerning such sittings (and when the sittings are for the trial of criminal as well as civil cases), and also cause to come thirteen good and lawful men of your Bailiwick duly qualified to serve as Grand Jurors at the said sittings; and also summon a competent number, being not less than \_\_\_\_\_ good and lawful men duly qualified to serve as Petit Jurors for the trial of (Criminal and) Civil issues; and that you and your deputy Sheriff, Bailiffs, and other officers then and there attend in your proper persons to do those things which to your and their offices appertain. And that you have then and there the names of all Jurors and Constables whom you shall cause to come before us. And have then and there this Precept.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

R.S.O. 1927, c. 96, Sched. D, Form. 1.

## FORM 2.

(Section 45 (2) )

Take notice that there being no business requiring the attendance of petit jurors at the sittings of the Supreme Court (or county court or court of general sessions of the peace) on the opening day thereof to be holden the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, your attendance as a juryman on that day is not required, and in so far as the summons served upon you requires your attendance on that day it shall be disregarded.

Further take notice that you are required to attend the sittings of this court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

And further take notice that in case you attend at such sittings on any day prior to that last above mentioned, you will not be entitled to any fees or mileage for such attendance.

Dated at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sheriff of the County  
(or District) of \_\_\_\_\_

1937, c. 35, s. 3.

## FORM 3.

(Section 64 (1).)

To

Take notice that you are required to attend the sittings of the Supreme Court (*or County or District Court*) (*or the Court of General Sessions of the Peace*) to be held at \_\_\_\_\_, in the County (*or District*) of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, as a Grand (*or Special, or Petit*) Juror, and in default of your so attending you will be liable to the penalties provided by *The Jurors Act*.

Dated at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 Sheriff of the County  
 (*or District*) of \_\_\_\_\_

R.S.O. 1927, c. 96, Sched. D, Form 2.

## FORM 4.

(Section 64 (3).)

To the Sheriff of the County *or* District of \_\_\_\_\_

Take notice that there is no (civil *or* criminal, *as the case may be*) business requiring the attendance of a jury at the ensuing sittings of the Supreme Court (*or the court of* \_\_\_\_\_) to be holden on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that the attendance of jurymen at such sittings is not required.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Registrar (*or* Local Registrar of the Supreme Court, Clerk of the County Court *or* Clerk of the Peace, *as the case may be*)  
 for the County *or* District of \_\_\_\_\_

R.S.O. 1927, c. 96, Sched. D, Form 3.

## FORM 5.

(Section 64 (5).)

To

Take notice that there being no business requiring the attendance of jurymen at the sittings of the Supreme Court (*or the court of* \_\_\_\_\_), to be holden on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, your attendance as a jurymen at such sittings is not required, and the summons served upon you for your attendance is cancelled.

Further take notice that in case you attend at such sittings after the receipt by you of this notice you will not be entitled to any fees or mileage for such attendance.

This notice is given pursuant to *The Jurors Act*.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sheriff of the County  
 (*or District*) of \_\_\_\_\_

R.S.O. 1927, c. 96, Sched. D, Form 4.

5. PROCEDURE IN CIVIL MATTERS.

CHAPTER 109.

The Arbitration Act.

1. In this Act,—

Interpreta-  
tion.

(a) "Court" shall mean the Supreme Court;

"Court."

(b) "Judge" shall mean a judge of the Supreme Court;

"Judge."

(c) "Rules of Court" shall mean the rules of the Supreme Court made under *The Judicature Act*;

"Rules of  
court."  
Rev. Stat.  
c. 100.

(d) "Submission" shall mean a written agreement to submit present or future differences to arbitration, whether or not an arbitrator is named therein.  
R.S.O. 1927, c. 97, s. 1.

"Submis-  
sion."

APPLICATION OF ACT.

2. This Act shall apply to an arbitration to which His Majesty is a party. R.S.O. 1927, c. 97, s. 2.

To the  
Crown.

3. This Act shall apply to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. R.S.O. 1927, c. 97, s. 3.

References  
under  
statutory  
powers.

REFERENCES BY SUBMISSION.

Generally.

4. A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the Court, and shall have the same effect as if it had been made an order of Court. R.S.O. 1927, c. 97, s. 4.

Irrevocab-  
ility of  
submission.  
Effect.

What submission to include.

**5.** A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in Schedule A, so far as they are applicable to the reference. R.S.O. 1927, c. 97, s. 5.

Official referee to act when applied to.

**6.** Where a submission provides that the reference shall be to an official referee any official referee to whom application is made shall hear and determine the matters agreed to be referred. R.S.O. 1927, c. 97, s. 6.

Staying legal proceedings taken after submission.

**7.** If any party to a submission, or any person claiming through or under him, commences any legal proceeding in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceeding may at any time after appearance and before delivering any pleading or taking any other step in the proceeding apply to that court to stay the proceeding, and that court, or a judge thereof, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceeding was commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceeding. R.S.O. 1927, c. 97, s. 7.

### *Appointment of Arbitrator or Umpire by Court.*

**8.—(1)** In any of the following cases,—

Failure to concur.

(a) where a submission provides that the reference shall be to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator; or

Failure to appoint.

(b) where an arbitrator, an umpire or a third arbitrator is to be appointed by any person, and such person does not make the appointment; or

Vacancies not filled.

(c) unless the submission otherwise provides, where an arbitrator, an umpire or a third arbitrator refuses to act or is incapable of acting or dies, and the vacancy is not supplied by the person having the right to fill the vacancy,

Remedy.

any party may serve the other party or the arbitrators, or the person who has the right to make the appointment, as the



case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice the Court or a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. R.S.O. 1927, c. 97, s. 8. When court may appoint. Powers of appointee.

*Powers of Arbitrators.*

**9.** An arbitrator or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power,— Powers of arbitrators.

(a) to administer oaths to the parties and witnesses;

(b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the Court; and

(c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. R.S.O. 1927, c. 97, s. 9.

**10.** The time for making an award may from time to time be enlarged by the Court or a judge whether or not the time for making the award has expired. R.S.O. 1927, c. 97, s. 10. Enlarging time for making award.

**11.**—(1) The Court may remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire. Remitting for reconsideration.

(2) The arbitrators or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order. R.S.O. 1927, c. 97, s. 11. When award to be made.

**12.**—(1) Where an arbitrator or umpire has misconducted himself the Court may remove him. Removal of arbitrator.

(2) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the award aside. R.S.O. 1927, c. 97, s. 12. Setting aside award.

**13.** An award may, by leave of the Court or a judge, be enforced in the same manner as a judgment or order to the same effect. R.S.O. 1927, c. 97, s. 13. Enforcing award.

*Witnesses and Evidence.*

Subpoenaing  
witnesses.

**14.** Any party to a submission may sue out of the Court a writ of subpoena *ad testificandum*, or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document which he would not be compellable to produce on the trial of an action. R.S.O. 1927, c. 97, s. 14.

Production.

Commission  
to examine  
witnesses.

**15.**—(1) Where a party to a submission desires to procure for use upon the reference the evidence of any person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action.

Application  
of Rev. Stat.,  
c. 100 and  
rules.

(2) The provisions of *The Judicature Act* and rules of court shall apply to such order or commission and to the proceedings thereon and the evidence taken thereunder. R.S.O. 1927, c. 97, s. 15.

*Appeal from Award.*

Where sub-  
mission  
provides for  
appeal.

**16.**—(1) Where it is agreed by the terms of the submission that there may be an appeal from the award an appeal shall lie to the judge of the Supreme Court and to the Court of Appeal.

Procedure  
by party  
taking up  
award.

(2) Where by the agreement of the parties or by the provisions of any statute there is an appeal from an award the party taking up the award shall file the same with the registrar of the Supreme Court and shall serve a copy of the award and a notice of the filing thereof upon the opposite party.

Notice of  
appeal.

(3) Notice of appeal may be served within fourteen days returnable within thirty days after service of the copy of the award and notice of filing.

Taking  
evidence in  
writing.

(4) In all cases in which there is a right of appeal the evidence of the witnesses shall be taken down in longhand and be signed by the witnesses, or be taken in shorthand.

Evidence to  
be tran-  
scribed only  
on appeal.

(5) It shall not be necessary that evidence taken in shorthand be transcribed unless an appeal is taken.

Exhibits—  
transmission  
to registrar.

(6) Upon the request of the party appealing the exhibits shall be transmitted by the arbitrator to the office of the registrar for the purpose of the appeal.

(7) A stenographer employed to take evidence in short-hand shall be sworn to faithfully take down and transcribe the evidence and shall certify to the accuracy of all copies supplied.

Oath of stenographer.

(8) Where the arbitrators proceed wholly or partly on a view of any knowledge or skill possessed by themselves or any of them they shall also put in writing a statement thereof sufficiently full to enable a judgment to be formed of the weight which should be attached thereto.

Statement of proceeding on view or special knowledge.

(9) The Court may require explanations or reasons from the arbitrator and may remit the matter or any part thereof to him for further consideration.

Requiring further report from arbitrator.

(10) The Court may extend the time limited by this section either before or after its expiry or may dispense with compliance with the requirements of this section. R.S.O. 1927, c. 97, s. 16.

Powers of court as to extension of time.

#### FEEES AND COSTS.

17. In sections 18 to 24,—

Interpretation.

- (a) "Arbitrator" and "Arbitrators" shall include an umpire and a referee in the nature of an arbitrator; and
- (b) "Award" shall include umpirage and a certificate in the nature of an award. R.S.O. 1927, c. 97, s. 17.

"Arbitrator."

"Award."

18. The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and no arbitrator shall take or receive from either party to any submission any greater fee than that agreed upon, or in default of agreement than that provided by Schedule B, and the receipt of any greater fee may be regarded as misconduct justifying the setting aside of the award. R.S.O. 1927, c. 97, s. 18.

Agreement as to fees to be paid to arbitrators.

19. No greater fees shall be taxed to a person called as a witness before an arbitrator than would be taxed to him in an action in the Supreme Court. R.S.O. 1927, c. 97, s. 19.

Fees to witnesses.

20. Where, at a meeting of arbitrators of which due notice has been given, no proceedings are taken in consequence of

Costs of meeting where no proceedings.

the absence of any party, or of a postponement at the request of any party, the arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses and of the counsel or solicitor of the party present, and not desiring the postponement, and unless under the special circumstances of the case they think that it would be unjust so to do, they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last mentioned party shall pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and the amount so charged may be set off against, and deducted from, any amount awarded in his favour. R.S.O. 1927, c. 97, s. 20.

Taxation at  
instance of  
parties.

**21.**—(1) Any party to an arbitration shall be entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the Supreme Court at Toronto upon an appointment which may be given by the taxing officer for that purpose on the filing of an affidavit setting forth the facts.

At instance  
of  
arbitrators.

(2) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit. R.S.O. 1927, c. 97, s. 21.

Discretion of  
taxing  
officer.

**22.**—(1) The taxing officer shall in no case, except as provided in section 18, tax higher fees than are mentioned in Schedule B to the arbitrators but, upon reasonable grounds, he may reduce the fees to any amount below the maximum mentioned in the Schedule, but not below the minimum, having always regard to the length of the arbitration, the value of the matter in dispute, and the difficulty of the questions to be decided; the fees to be allowed to solicitors and counsel shall be as nearly as may be similar to the fees allowed upon a reference in the Supreme Court or the county court, the scale to be determined by the taxing officer having regard to the value of the matter in dispute, but he shall not tax more than one counsel fee to either party.

Costs of  
award.

(2) The taxing officer may tax a reasonable sum for preparing the award.

Revision of  
taxation.

(3) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action.



(4) The taxing officer and the judge upon appeal from taxation shall have the power to reduce fees payable to the arbitrator and to counsel and solicitors where the arbitration has been unduly prolonged. R.S.O. 1927, c. 97, s. 22.

**23.** An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver the same until a larger sum is paid to him for his fees than is by this Act permitted, or who receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded or received by the arbitrator contrary to the provisions of this Act, to be recovered by action in a court of competent jurisdiction. R.S.O. 1927, c. 97, s. 23.

**24.** Where an award has been made the arbitrator may maintain an action for his fees after the same have been taxed, and in the absence of an express agreement to the contrary he may maintain such action against all the parties to the reference, jointly or severally. R.S.O. 1927, c. 97, s. 24.

#### GENERAL PROVISIONS.

**25.** A judge may order the sheriff, gaoler or other officer having the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.S.O. 1927, c. 97, s. 25.

**26.** An arbitrator or an umpire may at any stage of the proceedings and shall, if so directed by the Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference and an arbitrator or umpire appointed under the authority of a statute or by a court or judge shall, when so directed by the Court, state the reasons for his decision and his findings of fact and of law. R.S.O. 1927, c. 97, s. 26.

**27.** An order made under this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just. R.S.O. 1927, c. 97, s. 27.

**28.** An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, as hereinbefore provided, may allow a copy thereof or of such portion thereof as he may deem

material to be substituted as an exhibit in the place of the original book, paper or document. R.S.O. 1927, c. 97, s. 28.

Production of exhibits on appeal or motion to set aside award.

**29.** Upon an appeal from or motion to set aside an award any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion any original book, paper or document in his possession which has been used as an exhibit or given in evidence upon the reference, and which has not been filed with the depositions. R.S.O. 1927, c. 97, s. 29.

Time for moving to set aside.

**30.**—(1) Unless by leave of the Court or a judge, an application to set aside an award, otherwise than by way of appeal, shall not be made after six weeks from the publication of the award.

Time within which leave may be granted.

(2) Such leave may be granted before or after the expiration of the six weeks.

Vacations not reckoned.

(3) In the computation of time for appealing against, or applying to set aside an award, the vacations shall not be reckoned.

Costs of reference and award when set aside.

(4) When an award is set aside the Court or a judge setting aside the same may give directions as to the costs of the reference and award. R.S.O. 1927, c. 97, s. 30.

Powers to make rules.

**31.** Rules of court for the better carrying out of the purposes of this Act and regulating the practice thereunder may be made by an authority to whom is committed power of making rules of court. R.S.O. 1927, c. 97, s. 31.

#### VALUATORS.

Appointment of valuator, etc.

**32.**—(1) The Court or a judge shall have power to appoint a valuator, valuer or appraiser, where it is provided by a written agreement that a valuation or appraisement shall be made by a valuator, valuer or appraiser.

When power exerciseable. Procedure thereon. Excepted case.

(2) The power may be exercised in the like cases and the proceedings shall be the same as provided by section 8, except that the Court or a judge shall not have power without the consent of the parties to appoint a valuator, valuer or appraiser in the place of the one who is named in the agreement and who refuses to act, is incapable of acting or dies. R.S.O. 1927, c. 97, s. 32.

## SCHEDULE A.

*(Section 5.)*

## PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

(a) If no other mode of reference is provided, the reference shall be to a single arbitrator.

(b) If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(c) If any arbitrator or umpire or third arbitrator refuses to act, or is incapable of acting or dies the party or parties, or the arbitrators by whom he was appointed, may appoint an arbitrator, umpire or third arbitrator, as the case may be, in his stead, and this power may be exercised from time to time as vacancies occur.

(d) The submission shall not be revoked by the death of the parties or either of them.

(e) The award shall be delivered to any of the parties requiring the same; and the personal representatives of any party deceased may require delivery of the award.

(f) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

(g) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(h) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

(i) The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath in relation to the matters in dispute, and shall subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, documents and things within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

(j) The witnesses on the reference shall be examined on oath.

(k) The award to be made by the arbitrators or by a majority of them or by the umpire shall be final and binding on all the parties and the persons claiming under them respectively.

(l) The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid.

SCHEDULE B.

(Sections 18 and 22.)

FEES CHARGEABLE BY PROFESSIONAL ARBITRATORS.

For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party, not less than.....	\$4.00
nor more than.....	8.00
For every day's sittings, to consist of not less than six hours, not less than.....	10.00
nor more than.....	20.00
Where a day's sittings consists of more than six hours, For each additional hour, not less than.....	2.00
nor more than.....	3.00
For every sittings not extended to six hours (fractional parts of hours being excluded) where the reference is actually proceeded with, for each hour occupied, not less than.....	2.00
nor more than.....	3.00

R.S.O. 1927, c. 97, Schedule B.

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## CHAPTER 110.

### The Mental Incompetency Act.

#### 1. In this Act,—

Interpreta-  
tion.

- (a) “Contingent right,” as applied to land, shall in-  
clude a contingent and an executory interest; a  
possibility coupled with an interest whether the  
object of the gift or limitation or such interest or  
possibility is or is not ascertained, and a right of  
entry whether immediate or future and whether  
vested or contingent; “Contingent  
right.”  
Imp. Act,  
53-54 Vict.  
c. 5, s. 341.
- (b) “Convey” and “conveyance,” applied to any per-  
son, shall mean the execution by such person of  
every necessary or suitable assurance for convey-  
ing or disposing to another land whereof such per-  
son is seized, or in which he is entitled to a con-  
tingent right, either for the whole estate of the  
person conveying or for any less estate, together  
with the performance of all formalities required  
by law to the validity of such conveyance; “Convey.”  
“Convey-  
ance.”
- (c) “Court” shall mean the Supreme Court; “Court.”
- (d) “Land” shall include messuages, tenements, and  
hereditaments, corporeal and incorporeal of every  
tenure or description whatever may be the estate  
or interest therein, and whether entire or undi-  
vided; R.S.O. 1927, c. 98, s. 1, cls. (a-d). “Land.”
- (e) “Mentally incompetent person” shall mean a person,— “Mentally  
incompetent  
person.”
- (i) in whom there is such a condition of arrested  
or incomplete development of mind, whether  
arising from inherent causes or induced by  
disease or injury, or
  - (ii) who is suffering from such a disorder of the  
mind,

that he requires care, supervision and control for  
his protection and the protection of his property;

"Mental incompetency."

- (f) "Mental incompetency" shall mean the condition of mind of a mentally incompetent person; 1937, c. 39, s. 4.

"Mortgage."  
Imp. Act,  
53-54 Vict.  
c. 5, s. 341.

- (g) "Mortgage" shall include every interest or property in real or personal estate which is a security for money or money's worth;

"Possessed."

- (h) "Possessed" shall be applicable to any vested estate less than a life estate at law or in equity, in possession or in expectancy in any land;

"Seised."

Imp. Act,  
54-55 Vict.  
c. 65, s. 28.

- (i) "Seised" shall be applicable to any vested interest for life or of a greater description, and shall extend to estates at law and in equity in possession or in futurity in any land;

"Stock."

Imp. Act,  
53-54 Vict.  
c. 5, s. 341.

- (j) "Stock" shall include shares and any fund, annuity or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Acts relating to merchant shipping;

"Trust."  
"Trustee."

Imp. Act,  
53-54 Vict.  
c. 5, s. 341.

- (k) "Trust" and "trustee" shall include implied and constructive trusts and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage. R.S.O. 1927, c. 98, s. 1, cls. (g-k).

#### JURISDICTION OF COURT.

Powers of  
the Court.

Rev. Stat.,  
c. 392.

2.—(1) Subject to the provisions of *The Mental Hospitals Act*, the Court shall have all the powers, jurisdiction and authority of His Majesty over and in relation to the persons and estates of mentally incompetent persons, including the care and the commitment of the custody of mentally incompetent persons and of their persons and estates.

Orders of  
Court.

(2) The Court may make orders for the custody of mentally incompetent persons and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate upon the completion of the committee's security. R.S.O. 1927, c. 98, s. 2; 1937, c. 39, s. 3.

3. The powers by this Act conferred upon the Court may be exercised by a judge of the Supreme Court in Chambers. Powers of judge in chambers.  
R.S.O. 1927, c. 98, s. 3.

4. The Court may delegate to a master, official referee or other officer all or any of the powers of the Court under this Act, except the making of a declaration of mental incompetency. Power of master and official referee.  
R.S.O. 1927, c. 98, s. 4; 1937, c. 39, s. 3.

#### DECLARATION OF MENTAL INCOMPETENCY.

5.—(1) The Court upon application supported by evidence, may by order declare a person a mentally incompetent person if the Court is satisfied that the evidence establishes beyond reasonable doubt that he is a mentally incompetent person. Declaration of mental incompetency.

(2) The application may be made by the Attorney-General for Ontario, by any one or more of the next of kin of the alleged mentally incompetent person, by his or her wife or husband, by a creditor, or by any other person. By whom application to be made.

(3) The alleged mentally incompetent person and any person aggrieved or affected by the order shall have the right to appeal therefrom. Appeal.

(4) The practice and procedure on the appeal shall be the same as on an appeal from an order made by a judge of the Supreme Court. Procedure.  
R.S.O. 1927, c. 98, s. 5; 1937, c. 39, s. 3.

6.—(1) Where in the opinion of the Court the evidence does not establish beyond reasonable doubt the alleged mental incompetency, or where for any other reason the Court deems it expedient so to do, instead of making an order under subsection 1 of section 5, the Court may direct an issue to try the alleged mental incompetency. Issue to try the alleged mental incompetency.

(2) Subject to the provisions of section 7 the issue shall be tried with or without a jury as the Court directing it or the judge presiding at the trial may order. Method of trial.

(3) The trial shall take place at such time and place as the Court may direct. Time and place.

(4) On the trial of the issue the alleged mentally incompetent person, if within the jurisdiction of the court, shall be produced, and shall be examined at such time and in such manner, either in open Court or privately, and, where the trial is with a jury, before the jury retire to consider their Production of mentally incompetent person.

verdict, as the presiding judge may direct, unless the Court by the order directing the issue or the judge presiding at the trial dispenses with the production of the mentally incompetent person or with his examination. R.S.O. 1927, c. 98, s. 6 (1-4); 1937, c. 39, s. 3.

Scope of inquiry.

(5) On the trial of the issue the inquiry shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of the inquiry a mentally incompetent person and incapable of managing himself or his affairs, and the presiding judge shall make an order in accordance with the result of the inquiry. R.S.O. 1927, c. 98, s. 6 (5); 1937, c. 39, s. 5.

Procedure.

(6) The practice and procedure as to the preparation, entry for trial and trial of the issue, and all the proceedings incidental thereto, shall be the same as in the case of any other issue directed by the Court or a judge.

Appeal.

(7) The alleged mentally incompetent person and any person aggrieved or affected thereby shall have the like right to move against a verdict or to appeal from an order made upon or after the trial as may be exercised by a party to an action in the Supreme Court including the right of appeal; and the Court hearing any such motion or appeal shall have the same powers as upon a motion against a verdict or an appeal from a judgment entered at or after the trial of an action.

Finality.

(8) Subject to the provisions of section 9 the order or judgment of the Court or, where the issue is tried by a jury, the verdict of the jury shall be final unless set aside upon appeal or motion under subsection 7. R.S.O. 1927, c. 98, s. 6 (6-8); 1937, c. 39, s. 3.

Right of alleged mentally incompetent person to have issue tried by jury.

7. An alleged mentally incompetent person shall be entitled to demand, by notice in writing to be given to the person applying for the declaration of his mental incompetency, and also to be filed in the Central Office at Osgoode Hall, Toronto, at least ten days before the first day of the sittings at which the issue is directed to be tried, that any issue directed to determine the question of his mental incompetency shall be tried with a jury, and, unless he withdraws such demand before the trial, or the Court is satisfied by personal examination of the mentally incompetent person that he is not mentally competent to form and express a wish for a trial by jury and so declares by order, the issue shall be tried by a jury. R.S.O. 1927, c. 98, s. 7; 1937, c. 39; s. 3.



8.—(1) For the purposes of the examination mentioned in section 7, or where it is deemed proper for any other purpose, the Court may require the alleged mentally incompetent person to attend at such convenient time and place as the Court may appoint. Examination of alleged mentally incompetent person.

(2) The Court may by order require an alleged mentally incompetent person to attend and submit to examination by one or more medical practitioners at such time and place as the order directs. R.S.O. 1927, c. 98, s. 8; 1937, c. 39, s. 3. Order for medical examination.

#### SUPERSEDING DECLARATION OF MENTAL INCOMPETENCY.

9.—(1) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared a mentally incompetent person, or sooner by leave of the Court, the Court, if satisfied that such person has become mentally competent and capable of managing his own affairs, may make an order so declaring. R.S.O. 1927, c. 98, s. 9 (1); 1937, c. 39, ss. 3, 6 (1). Application to supersede declaration of mental incompetency.

(2) Any such order shall be subject to appeal as provided by subsections 3 and 4 of section 5. R.S.O. 1927, c. 98, s. 9 (2). Appeal.

(3) Instead of making an order under subsection 1 the Court may direct an issue to try the question of the recovery of the person so formerly declared or adjudged a mentally incompetent person. R.S.O. 1927, c. 98, s. 9 (3); 1937, c. 39, ss. 3, 6 (2). Directing issue as to recovery.

(4) Any issue so directed shall be subject to the provisions of section 6 and of section 7. R.S.O. 1927, c. 98, s. 9 (4). Application of ss. 6 and 7.

(5) Where a person formerly declared a mentally incompetent person has been found to be mentally competent and capable of managing his own affairs and the time for appealing from or moving against the order or verdict has expired, or if an appeal be taken or a motion made, when the same has been finally dismissed, an order may be issued superseding, vacating, and setting aside the order declaring the mental incompetency of such person for all purposes except as to acts or things done in respect of the person or estate of the mentally incompetent person while such order was in force. R.S.O. 1927, c. 98, s. 9 (5); 1937, c. 39, ss. 3, 6 (3). Order superseding declaration of mental incompetency.

#### COMMITTEES OF ESTATES OF MENTALLY INCOMPETENT PERSONS.

10. Where a committee of the estate of a mentally incompetent person has been appointed,—

Inventory of  
present  
property.

(a) the committee shall, within six months after being appointed, file in the office of the master to whom the matter is referred, or of such officer as may be appointed for that purpose, a true inventory of the whole real and personal estate of the mentally incompetent person, stating the income and profits thereof, and setting forth the debts, credits, and effects of the mentally incompetent person, so far as the same have come to the knowledge of the committee;

Also, of after  
discovered  
property.

(b) if any property belonging to the estate is discovered after the filing of the inventory the committee shall file a true account of the same, from time to time, as it is discovered;

Verification.

(c) every inventory and account shall be verified by the oath of the committee;

Security to  
be given by  
the  
committee.

(d) the committee shall give security with two or more sureties in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same from time to time at such intervals as may be directed by the Court, for filing the inventory and for the payment into Court of the balances in his hands upon such accounting forthwith after the same shall have been ascertained or otherwise as the Court may direct; and

Form of  
security.

(e) the security shall be taken by bond in the name of the accountant of the Supreme Court, and shall be filed in his office. R.S.O. 1927, c. 98, s. 10; 1930, c. 26, s. 2; 1937, c. 39, s. 3.

#### MANAGEMENT AND ADMINISTRATION.

Powers of  
Court as to  
maintenance  
of mentally  
incompetent  
person or his  
family.  
Imp. Act,  
53-54, Vict.,  
c. 5,  
s. 116 (4).

**11.** The powers conferred by this Act as to the management and administration of a mentally incompetent person's estate shall be exercisable in the discretion of the Court for the maintenance or benefit of the mentally incompetent person or of his family or where it appears to be expedient, in the due course of management of the property of the mentally incompetent person. R.S.O. 1927, c. 98, s. 11; 1937, c. 39, s. 3.

Rights of  
creditors.

Imp. Act,  
53-54 Vict.,  
c. 5,  
s. 116 (5).

**12.** Nothing in this Act shall subject a mentally incompetent person's property to claims of his creditors further than the same is now subject thereto by due course of law. R.S.O. 1927, c. 98, s. 12; 1937, c. 39, s. 3.

**13.**—(1) The Court may order that any property of the mentally incompetent person, whether present or future, be sold, charged, mortgaged, dealt with or disposed of as may be deemed most expedient for the purpose of raising or securing or repaying, with or without interest, money which is to be or has been applied to,—

Power to raise money for certain purposes.

- (a) payment of the mentally incompetent person's debts or engagements;
- (b) discharge of any encumbrance on his property;
- (c) payment of any debt or expenditure incurred for the mentally incompetent person's maintenance or otherwise for his benefit;
- (d) payment of or provision for the expenses of his future maintenance.

(2) Where a charge or mortgage is made under this Act for the expenses of future maintenance, the Court may direct the same to be payable either contingently if the interest charged is contingent or future, or upon the happening of the event if the interest is dependent on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as may be deemed expedient. R.S.O. 1927, c. 98, s. 13; 1937, c. 39, s. 3.

Terms of charge or mortgage.

Imp. Act, 53-54 Vict., c. 5, s. 117.

**14.**—(1) The Court may order that the whole or any part of any moneys expended or to be expended under an order of the Court for the permanent improvement, security, or advantage of the property of the mentally incompetent person, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the mentally incompetent person, but so that no right of sale or foreclosure during the lifetime of the mentally incompetent person be conferred by the charge.

Charging mentally incompetent person's estate for permanent improvements.

Imp. Act, 53-54 Vict., c. 5, s. 118.

(2) The interest shall be kept down during the mentally incompetent person's lifetime out of the income of his general estate, as far as the same is sufficient to bear it.

Interest, how to be met.

(3) The charge may be made either to some person advancing the money or, if the money is paid out of the mentally incompetent person's general estate, to some person as trustee for him as part of his personal estate. R.S.O. 1927, c. 98, s. 14; 1937, c. 39, s. 3.

To whom charge to be made.

Powers of  
committee  
under order  
of Court.

**15.** The Court may, by order, authorize and direct the committee of the estate of a mentally incompetent person to do all or any of the following things:—

Imp. Act,  
53-54 Vict.,  
c. 5, s. 120.

- (a) sell any property belonging to the mentally incompetent person;
- (b) make exchange or partition of any property belonging to the mentally incompetent person, or in which he is interested, and give or receive any money for equality of exchange or partition;
- (c) carry on any trade or business of the mentally incompetent person;
- (d) grant leases of any property of the mentally incompetent person for building, agricultural, or other purposes;
- (e) grant leases of minerals forming part of the mentally incompetent person's property, whether the same have been already worked or not, and either with or without the surface or other land;
- (f) surrender any lease and accept a new lease;
- (g) accept a surrender of any lease and grant a new lease;
- (h) execute any power of leasing vested in a mentally incompetent person having a limited estate only in the property over which the power extends;
- (i) perform any contract relating to the property of the mentally incompetent person entered into by him before his mental incompetency;
- (j) surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the mentally incompetent person;
- (k) exercise any power or give any consent required for the exercise of any power where the power is vested in the mentally incompetent person for his own benefit or the power of consent is in the nature of a beneficial interest in the mentally incompetent person;
- (l) give consent to the transfer or assignment of a lease where the consent of the mentally incompetent person to the transfer or assignment thereof is requisite. R.S.O. 1927, c. 98, s. 15; 1937, c. 39, s. 3.



**16.** Any property taken in exchange and any renewed lease accepted on behalf of a mentally incompetent person under the powers of this Act, shall be to the same uses and be subject to the same trusts, charges, encumbrances, dispositions, devices, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to. R.S.O. 1927, c. 98, s. 16; 1937, c. 39, s. 3.

Property exchanged and renewed lease to be to same uses as before.

Imp. Act, 53-54 Vict., c. 5, s. 121.

**17.—**(1) The power to authorize leases of a mentally incompetent person's property under this Act shall extend to property of which the mentally incompetent person is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the mentally incompetent person and all persons entitled in remainder and reversion expectant upon the estate tail of the mentally incompetent person, including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the mentally incompetent person shall have the same rights and remedies against the lessee, his executors, administrators and assigns as the mentally incompetent person or his committee would have had.

Extent of leasing power.

Imp. Act, 53-54 Vict., c. 5, s. 122.

(2) Leases authorized to be granted or accepted by or on behalf of a mentally incompetent person under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the Court approves.

Term.

(3) Premiums or other payments on the renewal of leases may be paid out of the mentally incompetent person's estate, or charged with interest on the leasehold property. R.S.O. 1927, c. 98, s. 17; 1937, c. 39, s. 3.

Premiums, etc., on renewal.

**18.—**(1) The mentally incompetent person, his heirs, executors, administrators, next of kin, devisees, legatees and assigns, shall have the same interest in any money arising from any sale, mortgage or other disposition, under the powers of this Act, which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage, or disposition, if no sale, mortgage or disposition had been made, and the surplus money shall be of the same nature as the property sold, mortgaged or disposed of.

Nature of proceeds of sale and mortgage.

(2) Money received for equality of partition and exchange, or under any lease of unopened mines, and all premiums and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange or

And of money received from certain other sources.

lease was land of the mentally incompetent person, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the mentally incompetent person, be considered as real estate, except in the case of premiums and sums of money received upon the grant or renewal of leases of property of which the mentally incompetent person was tenant for life, in which case the premiums and sums of money shall be personal estate of the mentally incompetent person.

Powers of Court.

53-54 Vict.  
c. 5, s. 123.

(3) In order to give effect to this section the Court may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as may be deemed expedient. R.S.O. 1927, c. 98, s. 18; 1937, c. 39, s. 3.

Power to carry orders into effect.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 124.

**19.** The committee of the estate, or such person as the Court approves, shall, in the name and on behalf of the mentally incompetent person, execute and do all such assurances and things for giving effect to any order under this Act as the Court directs, and every such assurance and thing shall be valid and effectual and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject. R.S.O. 1927, c. 98, s. 19; 1937, c. 39, s. 3.

Powers vested in mentally incompetent person as trustee or guardian.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 128.

**20.** Where a power is vested in a mentally incompetent person in the character of trustee or guardian, or the consent of a mentally incompetent person to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the Court to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the mentally incompetent person, under an order of the Court made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs. R.S.O. 1927, c. 98, s. 20; 1937, c. 39, s. 3.

Appointment of trustees by Court.

Imp. Act,  
53-54 Vict.  
c. 5, s. 129.  
Rev. Stat.,  
c. 165.

**21.** Where the Court exercises, in the name and on behalf of the mentally incompetent person, a power of appointing new trustees vested in the mentally incompetent person, the Court, where it seems to be for the mentally incompetent person's benefit and also expedient, may make any order respecting the property subject to the trust which might have been made in the same case under *The Trustee Act*, on the appointment thereunder of a new trustee or new trustees. R.S.O. 1927, c. 98, s. 21; 1937, c. 39, s. 3.

**22.**—(1) Where it appears to the Court that there is reason to believe that the mental incompetency of any mentally incompetent person so found is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of the mentally incompetent person, or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the mentally incompetent person, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the Court may allow thereout such amount as may be deemed proper for the temporary maintenance of the mentally incompetent person or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money, or any part thereof, to such person as under the circumstances of the case it may be thought proper to entrust with the application thereof, and may direct the same to be paid to such person accordingly, and when received to be applied and the same shall accordingly be applied in or towards such temporary maintenance. R.S.O. 1927, c. 98, s. 22 (1); 1937, c. 39, ss. 3, 7.

Provision for maintenance when disability is temporary.

(2) The receipt in writing of the person to whom payment is to be made for any money payable to him by virtue of an order under this section shall be a good discharge, and every person is hereby directed to act upon and obey every such order.

Effect of receipt.

(3) The person receiving any money by virtue of an order under this section shall pass an account thereof when and as the Court may direct. R.S.O. 1927, c. 98, s. 22 (2, 3).

Liability to account.

Imp. Act, 53-54 Vict., c. 5, s. 127.

#### VESTING ORDERS.

**23.** Where any stock is standing in the name of or is vested in a mentally incompetent person beneficially entitled thereto, or is standing in the name of or vested in the committee of the estate of a mentally incompetent person so found, in trust for the mentally incompetent person, or as part of his property, and the committee dies intestate, or himself becomes a mentally incompetent person, or is out of Ontario, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, or to

Power to transfer stock.



Imp. Act,  
53-54 Vict.,  
c. 5, s. 133.

receive or pay over the dividends thereof as directed by an order of the Court, then the Court may order some fit person to transfer the stock to or into the name of a new committee, or of the accountant of the Supreme Court, or otherwise, and also to receive and pay over the dividends in such manner as the Court directs. R.S.O. 1927, c. 98, s. 23; 1937, c. 39, s. 3.

Stock in  
name of  
mentally  
incompetent  
person out of  
jurisdiction.

**24.** Where any stock is standing in the name of or vested in a person residing out of Ontario, the Court upon proof that he has been declared a mentally incompetent person and that his personal estate has been vested in a person appointed for the management thereof according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends thereof as the Court may direct. R.S.O. 1927, c. 98, s. 24; 1937, c. 39, s. 3.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 134.

Power to vest  
land of men-  
tally incom-  
petent  
trustee or  
mortgagee.

**25.—(1)** Where a mentally incompetent person is solely or jointly seised or possessed of any land upon trust or by way of mortgage, the Court may by order vest such land in such person or persons for such estate and in such manner as the Court directs.

Or a contin-  
gent right.

**(2)** Where a mentally incompetent person is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage the Court may by order release such land from the contingent right and dispose of the same to such person as the Court shall direct.

Effect of  
order.

**(3)** An order made under subsections 1 and 2 shall have the same effect as if the trustee or mortgagee had been sane and had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.

Conveyance.

**(4)** Where an order may be made under this section the Court may, if it is more convenient, appoint a person to convey the land or release the contingent interest, and a conveyance or release by such person in conformity with the order shall have the same effect as an order under subsections 1 and 2. R.S.O. 1927, c. 98, s. 25; 1937, c. 39, s. 3.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 135.

Mentally  
incompetent  
trustee or  
mortgagee  
of chose in  
action.

**26.—(1)** Where a mentally incompetent person is solely entitled to any stock or chose in action upon trust or by way of mortgage, the Court may by order vest in any person the right to transfer or to call for a transfer of the stock or to receive the dividends thereof, or vest in any person the chose in action, or any interest in respect thereof.



(2) Where any person is jointly entitled with a mentally incompetent person to any stock or chose in action upon trust or by way of mortgage the Court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof either in such person alone or jointly with any other person. Jointly interested.

(3) Where any stock is standing in the name of a deceased person whose personal representative is a mentally incompetent person or where a chose in action is vested in a mentally incompetent person as the personal representative of a deceased person, the Court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof in any person whom the Court may appoint. Mentally incompetent personal representative.

(4) Where an order may be made under this section the Court may, if it is more convenient, appoint some fit person to make or join in making the transfer. R.S.O. 1927, c. 98, s. 26; 1937, c. 39, s. 3. Transfer. Imp. Act, 53-54 Vict., c. 5, s. 136.

**27.**—(1) The person in whom the right to transfer or to call for a transfer of any stock is vested may execute and do all powers of attorney, assurances and things to complete the transfer, according to the order, and the transfer shall be valid and effectual to all intents and purposes, and banks and other companies and their officers and all other persons shall be bound to obey every such order according to its terms. Execution of powers of attorney and transfers.

(2) After notice in writing of an order under this Act it shall not be lawful for a bank or other company to transfer stock to which the order relates or pay any dividends except in accordance with the order. R.S.O. 1927, c. 98, s. 27. Bank or company to be bound by order. Imp. Act, 53-54 Vict., c. 5, s. 136.

**28.** This Act and every order purporting to be made under this Act shall be a full indemnity and discharge to any bank and other company and society and their respective officers and servants, and all other persons for all acts and things done or permitted to be done pursuant thereto so far as relates to any property in which a mentally incompetent person is interested either in his own right or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make the same. R.S.O. 1927, c. 98, s. 28; 1937, c. 39, s. 3. Order to be complete discharge. Imp. Act, 53-54 Vict., c. 5, s. 333.

Order to be  
conclusive  
evidence of  
mental  
incom-  
petency.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 140.

**29.** The fact that an order made under this Act for conveying or vesting land or releasing or disposing of a contingent right has been founded on an allegation of the mental incompetency of a trustee or mortgagee, shall be conclusive evidence of the fact alleged in any Court upon any question as to the validity of the order; but this section shall not prevent the Court from directing a reconveyance of any land or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order, where the same appears to have been improperly obtained. R.S.O. 1927, c. 98, s. 29; 1937, c. 39, s. 3.

Order vesting  
in trustees of  
charities.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 138.

**30.** The powers conferred by this Act as to vesting orders may be exercised by vesting any land, stock or chose in action in the trustee or trustees of any charitable society or in any incorporated charitable body over which the Court would have jurisdiction upon action duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the Court under its general or statutory jurisdiction. R.S.O. 1927, c. 98, s. 30.

Declarations  
and direc-  
tions by  
Court.  
Imp. Act,  
53-54 Vict.,  
c. 5, s. 139.

**31.** The Court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised. R.S.O. 1927, c. 98, s. 31.

Appointment  
of new  
trustee.

Imp. Act,  
53-54 Vict.,  
c. 5, s. 141.

**32.** Where the Court has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, an order may also be made appointing a new trustee or trustees. R.S.O. 1927, c. 98, s. 32.

#### MISCELLANEOUS PROVISIONS.

Money in  
Court  
belonging to  
mentally  
incompetent  
person in  
any other  
part of  
Canada, or  
Great  
Britain, or  
Ireland.

**33.** Where there is money in any Court to the credit of a person who has been found or who is alleged to be a mentally incompetent person and such person is resident in Great Britain or Ireland or in any part of Canada, other than Ontario, upon production of an order made by a Superior Court exercising jurisdiction where such person is resident, authorizing any person to receive such money, the Court may make an order for payment of such money to the person designated in the order to receive the same. R.S.O. 1927, c. 98, s. 33; 1937, c. 39, s. 3.

Costs.

**34.** The Court may order the costs, charges, and expenses of and incidental to orders, issues, directions, conveyances, transfers, and all proceedings of whatever nature under this Act to be paid by any party to the application, issue or pro-

ceeding, or out of the estate of the mentally incompetent person or alleged mentally incompetent person, or partly in one way and partly in another. R.S.O. 1927, c. 98, s. 34; 1937, c. 39, s. 3.

**35.**—(1) The Supreme Court may make rules for carrying this Act into effect and for regulating the costs in relation thereto, and except where inconsistent with the provisions of this Act or such rules, *The Judicature Act* and rules made thereunder shall apply to proceedings under this Act. Rules.  
Rev. Stat.,  
c. 100.

(2) The provisions of *The Judicature Act* as to the promulgation of rules made thereunder and the effect thereof shall apply to rules made under the authority of this section. Application  
of Judicature  
Act.  
R.S.O. 1927, c. 98, s. 35.

APPLICATION OF ACT TO PERSONS NOT MENTALLY INCOMPETENT,  
BUT INCAPACITATED BY MENTAL INFIRMITY.

**36.**—(1) The powers and provisions of this Act relating to management and administration shall apply to every person not declared to be mentally incompetent with regard to whom it is proved, to the satisfaction of the Court, that he is, through mental infirmity, arising from disease, age, or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs. Extension of  
Act to cer-  
tain persons  
not declared  
mentally  
incompetent  
persons.

(2) The provisions of this section shall apply although the person is not a mentally incompetent person. Application  
of section.

(3) Such of the powers of this Act as are made exercisable by the committee of the estate under order of the Court shall be exercised in the cases provided for by subsection 1 by such person, in such manner, and with or without security, as the Court may direct, and any such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the Court. Powers of  
committee,  
how exercised  
and by  
whom.

(4) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the Court as if such person were the committee of the estate of a mentally incompetent person so declared. Liability of  
person  
appointed.  
Imp. Act,  
53-54 Vict.,  
c. 5,  
s. 116 (1)  
(d), (2),  
54-55 Vict.,  
c. 65,  
s. 27 (4).

(5) Section 11 shall apply to the cases provided for by subsection 1, and the person in respect of whom the order is made, and any person aggrieved or affected by the order Application  
of s. 11.

shall have the like right to appeal therefrom as is provided for by section 5. R.S.O. 1927, c. 98, s. 36.

Proceedings  
on applica-  
tion to  
discharge  
order.

(6) Upon application at any time after the expiration of one year the like proceedings may be taken and the like order made as provided in section 9 in the case of a person who has been declared a mentally incompetent person. 1929, c. 32, s. 2; 1937, c. 39, s. 3.

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## CHAPTER 111.

## The Replevin Act.

1. In this Act, "sheriff" shall include any officer to whom an execution or other process is directed. R.S.O. 1927, c. 99, s. 1. Interpretation.  
"Sheriff."

## WHEN GOODS REPLEVIABLE.

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained or have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery thereof, and of the damages sustained by reason of such distraint, taking or detention. R.S.O. 1927, c. 99, s. 2. When goods may be replevied.

3. An action of replevin shall not be brought for the recovery of personal property seized under process by and in the custody of a sheriff, bailiff or other officer, or for the recovery of any liquor seized by a license inspector, constable or other officer under any Act of this Province for prohibiting or regulating the manufacture, sale, transportation, distribution, possession or disposition of liquor as defined by *The Liquor Control Act*. R.S.O. 1927, c. 99, s. 3. Goods seized under legal process.  
Rev. Stat., c. 294.

4. Where a sheriff has in his hands an order of replevin, and the property to be replevied or any part thereof is reasonably supposed to be secured or concealed in any dwelling house of the defendant, or of any other person holding the same for him, and the sheriff publicly demands at the door of such dwelling house delivery of the property to be replevied, and the same is not delivered to him within six hours after such demand, he may, and shall, if necessary, but during daylight only, break open such dwelling house for the purpose of replevying such property or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1927, c. 99, s. 4. Power of sheriff to make search under order of replevin in dwelling house of defendant or others holding for him.

When concealed in other enclosure.

**5.** Where the property to be replevied, or any part thereof, is reasonably supposed to be secured or concealed in an enclosure other than a dwelling house of the defendant, or of another person holding the same for him, and the sheriff publicly demands at the enclosure delivery of the property to be replevied, and the same is not forthwith delivered to him, he may, and shall, if necessary, at once break open such enclosure for the purpose of replevying such property, or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1927, c. 99, s. 5.

When concealed on person, etc.

**6.** Where the property to be replevied, or any part thereof, is reasonably supposed to be concealed either about the person or on the premises of the defendant, or of any other person holding the same for him, and the sheriff demands from the defendant, or such other person, delivery thereof, and delivery is neglected or refused, he may, and, if necessary shall, search and examine the person, and, subject to sections 4 and 5, the premises of the defendant or other person, for the purpose of replevying the property, or any part thereof, and, if found, shall make replevin according to the order. R.S.O. 1927, c. 99, s. 6.

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## CHAPTER 112.

## The Dower Act.

## PART I.

## RIGHT TO DOWER.

**1.** A widow, on the death of her husband, may tarry in his chief house for forty days after his death, within which time her dower shall be assigned her, if it has not been assigned her before, and in the meantime she shall have her reasonable maintenance, and for her dower shall be assigned to her the third part of all the lands of her husband, whereof he was seized at any time during coverture, except such thereof as he was so seized of in trust for another. R.S.O. 1927, c. 100, s. 1.

Dower and  
quarantine.

25 Edw. I,  
c. 7 Magna  
Charta.

**2.** A widow wrongfully deforced of dower or quarantine, may recover damages for such deforcement against the deforcer. R.S.O. 1927, c. 100, s. 2.

Damages for  
deforcement.  
20 Hen. III,  
(Stat. of  
Merton,  
c. (I).

**3.** Where a husband dies beneficially entitled to any land for an interest which does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is, or is equal to an estate of inheritance in possession, other than an estate in joint tenancy, his widow shall be entitled to dower out of such land. R.S.O. 1927, c. 100, s. 3.

Dower out  
of equitable  
estates.

**4.** Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same, although her husband did not recover possession thereof, but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R.S.O. 1927, c. 100, s. 4.

Dower where  
husband had  
a right of  
entry.

## WHERE NO DOWER.

**5.** Dower shall not be recoverable out of any separate and distinct lot, tract, or parcel of land which, at the time of the alienation by the husband or at the time of his death, if he

Land in  
state of  
nature.

died seized thereof, was in a state of nature, and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this shall not restrict or diminish the right to have woodland assigned to the dowress under section 29, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of the same lot, tract, or parcel assigned to her. R.S.O. 1927, c. 100, s. 5.

Mining land.

**6.** No dower shall be recoverable out of any land which has been heretofore or shall be hereafter granted by the Crown as mining land in case such land is, on or after the 31st day of December, 1897, granted or conveyed to the husband of the person claiming dower and he does not die entitled thereto. R.S.O. 1927, c. 100, s. 6.

Land dedicated for streets.

**7.** Land dedicated by the owner thereof for a street or public highway shall not be subject to any claim for dower by the wife of the person by whom the same was dedicated. R.S.O. 1927, c. 100, s. 7.

Dower forfeited by elopement with adulterer.

13 Edw. 1. (Stat. of Westminster 2nd), c. 34.

**8.** Where a wife willingly leaves her husband and goes away, and continues with her adulterer, she shall be barred forever of her action to demand her dower that she ought to have of her husband's land, unless her husband willingly and without coercion be reconciled to her and suffer her to dwell with him; in which case she shall be restored to her action. R.S.O. 1927, c. 100, s. 8.

#### BAR OF DOWER.

Effect of bar of dower in mortgages.

**9.—(1)** No bar of dower contained in any mortgage or other instrument intended to have the effect of a mortgage or other security upon land shall operate to bar such dower to any greater extent than shall be necessary to give full effect to the rights of the mortgagee or grantee under such instrument.

Wife's right to dower in surplus of purchase money arising from sale under mortgage.

**(2)** Where land comprised in such mortgage or other instrument is sold under any power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who shall have so barred her dower in such land shall be entitled to dower in any surplus of the purchase money arising from such sale which may remain after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money shall be derived had the same not been sold and except where the mortgage or



other instrument is for the purchase money of the land the amount to which she is entitled shall be calculated on the basis of the amount realized from the sale of the land, and not upon the amount realized from the sale over and above the amount of the mortgage only. R.S.O. 1927, c. 100, s. 9.

(NOTE—*As to the right to dower in land subject to The Land Titles Act where land acquired subject to a charge, or where owner, after charging land, marries, see, R.S.O., c. 174, s. 46.*)

**10.**—(1) A mortgagee or other person holding any money out of which a married woman shall be dowable under section 9 may pay the same into the Supreme Court to the credit of such married woman and the other persons interested therein. Payment of money into Court.

(2) The Court may, on a summary application, make such order as may be deemed just for securing the right of dower of a married woman in any money out of which she shall be dowable. R.S.O. 1927, c. 100, s. 10. Order for securing right of dower.

**11.** A widow shall not be entitled to take her interest in money under section 9, and, in addition thereto, a share of the money as personal estate. R.S.O. 1927, c. 100, s. 11. Widow's election.

**12.** A person whose wife is of unsound mind and confined in an institution under *The Mental Hospitals Act* at the time he becomes the owner of any land, may at any time while his wife is so confined sell and convey or mortgage such land, freed and discharged of any claim of his wife for dower therein. R.S.O. 1927, c. 100, s. 12. Sale, etc., free from dower. Rev. Stat., c. 392.

**13.**—(1) Where the wife of an owner of land,—

(a) has been living apart from him for two years under such circumstances as disentitle her to alimony; or

(b) is of unsound mind and confined as such in a hospital for mentally ill, mentally defective or epileptic persons,

Where wife living apart from her husband.

and such owner is desirous of selling or mortgaging the land free from dower, a judge of the Supreme Court, or a judge of the county or district court of the county or district in which such owner resides, on application by him, may, by an order to be made in a summary way, upon such evidence as to the judge may seem meet, and upon notice to be served

personally, dispense with the concurrence of the wife for the purpose of barring her dower.

Service of  
notice of  
application  
to judge.

(2) Where for any reason notice cannot be served personally the order may be made after notice has been served upon the Public Trustee and in such other manner as the judge may direct.

Order—form  
and contents  
of.

(3) The judge shall, unless the wife has been so living apart from her husband under such circumstances as dis-entitle her to dower, ascertain and state in the order the value of such dower, and shall by the order direct that the amount thereof shall be paid into court or shall remain a charge upon the land or be secured otherwise for the benefit of the wife or be paid or applied for her benefit as he may deem best.

Conveyance  
or mortgage  
after order.

(4) After the making of the order a conveyance or mortgage by the owner, expressed to be free from his wife's dower, shall, subject to the terms and conditions mentioned in the order, be sufficient to bar her right thereto.

When agree-  
ment for sale  
executed by  
husband or  
part of pur-  
chase money  
retained.

(5) This section shall extend to any case in which an agreement for sale has been made, or a conveyance executed by the husband, and part of the purchase money retained by the purchaser on account of dower or an indemnity given against such dower, and in any such case the application may be made by any person interested in the land, the purchase money retained or the indemnity.

Where wife  
is an infant  
or of un-  
sound mind.

(6) Where the wife is an infant or a person of unsound mind notice of the application shall be served on the Official Guardian, except where such person is confined in an institution under *The Mental Hospitals Act*, in which case the notice shall only be served on the Public Trustee. R.S.O. 1927, c. 100, s. 13 (1-6).

Rev. Stat.,  
c. 392.

Fee.

(7) On every such application a fee of \$5 shall be payable in law stamps, and no other fee or charge of any kind shall be payable in respect thereof, except that for filing the affidavits and papers the proper officer shall charge the same fees as for filing papers in other cases, which in the Supreme Court shall be paid in law stamps. R.S.O. 1927, c. 100, s. 13 (7); 1936, c. 56, s. 6.

Application  
where wife is  
mentally ill  
but not  
confined in  
an hospital.

**14.**—(1) Where the gaol surgeon of a county or district in which a married woman, who is not confined in a hospital for mentally ill, resides, and another medical practitioner to be named by the judge, each certifies (Form 1) that he has personally examined such married woman and that he is of

opinion that she is mentally ill, and a judge of the county or district court of the county or district in which such married woman resides, or a judge of the Supreme Court, also certifies (Form 2) that he has personally examined such married woman, and that from such examination and from the evidence adduced before him, if he thinks it expedient to hear evidence, he is of opinion that such married woman is mentally ill, the judge may make the like order as by section 13 is authorized.

(2) The examination and certificates required by this section shall not be acted upon by the judge unless all are made within a period of one month, and the application shall not be entertained unless it is made within one month after the day upon which the last of such examinations took place. Interval between examination and application.

R.S.O. 1927, c. 100, s. 14.

**15.** Where a judge makes an order under either section 13 or section 14, with reference to any parcel of land, he may afterwards make orders in respect of other sales or mortgages by the husband, on the evidence adduced on the first application, and on other evidence which may satisfy him of the continued mental illness of the wife. Subsequent orders by judge as to other sales or mortgages. R.S.O. 1927, c. 100, s. 15.

**16.** Where the owner of land has become bankrupt and it is sought to sell such lands in order to wind up his estate, and the wife of such owner will not release her dower, the trustee or assignee in bankruptcy may apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the lands are situate, for an order enabling him to convey the land free from the dower of such wife and the order may be made subject to the like conditions and upon the like proceedings as are provided for in section 13. Bar of dower on sale in bankruptcy. 1928, c. 21, s. 6.

**17.—(1)** Where the wife of an owner of land has been living apart from her husband for five years or more, and the husband sells and conveys, or has sold and conveyed the land, or mortgages, or has mortgaged the same, the wife not having joined in the conveyance or mortgage, and the purchaser or mortgagee not having had notice that the grantor or mortgagor had a wife living at the time, such purchaser or mortgagee may during the lifetime of the grantor or mortgagor apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which he resides for an order enabling him to convey or mortgage the land free from the dower of such wife, which may be obtained subject to the like conditions, and by the like proceedings, as are provided by section 13. Where wife of vendor or mortgagor has been living apart from husband for five years.

Relief of persons claiming under grantee or mortgagee.

(2) A person claiming under the grantee or mortgagee shall be entitled to apply in like manner and obtain like relief founded on the right which such grantee or mortgagee had, or on the applicant's own interest having been acquired by purchase for value in good faith without notice that such owner had a wife at the time of the conveyance or mortgage. R.S.O. 1927, c. 100, s. 16.

Registration of order.

**18.**—(1) An order under any of the preceding sections may be made in duplicate, or in as many parts as are necessary, and shall be signed by the judge, and may be registered in the registry office of the registry division wherein the land to which the same relates is situate, upon its production and deposit, without any proof thereof, and such registration may take place either before or after the execution of the conveyance or mortgage made in pursuance of such order.

Order may be indorsed on deed.

(2) The order may be indorsed or written upon the conveyance or mortgage, in which case it shall be registered as part thereof.

Fee for registration of order.

(3) For the registration of the order, including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1, unless the order is indorsed or written upon the conveyance or mortgage, in which case no fee shall be payable in respect of the registration thereof.

Description of land in order when order indorsed on deed.

(4) If the order is indorsed or written upon the conveyance or mortgage the land may be described in the order by reference to the description contained in the conveyance or mortgage. R.S.O. 1927, c. 100, s. 17.

Wife joining in deed without releasing dower.

**19.** Where a wife has joined or hereafter joins in a conveyance or mortgage purporting to convey or mortgage land, or has signed or signs, otherwise than as a witness, a conveyance or mortgage by which her husband conveys or mortgages or purports to convey or mortgage land, but the conveyance or mortgage conveys no words purporting to release her dower or other estate or interest in the land, the conveyance or mortgage shall have the same effect as if it contained a bar of dower by the wife and she thereby barred her dower in the land. R.S.O. 1927, c. 100, s. 18.

(NOTE—*For right of married women to convey or release dower, see Married Women's Property Act, R.S.O. c. 209.*)

Married women under twenty-one barring dower.

**20.** A married woman, under twenty-one years of age, of sound mind may bar her dower in any land by joining with her husband in a deed or conveyance thereof to a pur-



chaser for value, to a mortgage, or by a transfer or charge under the provisions of *The Land Titles Act* in which deed, conveyance, transfer or charge, a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such land has been previously conveyed. R.S.O. 1927, c. 100, s. 19.

Rev. Stat.,  
c. 174.

## PART II.

### ASSIGNMENT OF DOWER.

**21.** The dowress and the tenant of the freehold may, by an instrument under their hands and seals, executed in the presence of two witnesses, agree upon the assignment of dower, or upon a yearly or gross sum of money to be paid in lieu and satisfaction of dower, and the instrument may be registered in the proper registry office by filing the same or a duplicate thereof, verified by the affidavit of one of the subscribing witnesses, and shall entitle the dowress to hold the land so assigned to her against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in any court of competent jurisdiction the yearly or gross sum agreed to be paid to her by the tenant of the freehold, and the instrument so registered shall be a lien upon the land for such yearly or gross sum, and shall be a bar to any action or proceeding by the dowress for dower in the lands mentioned therein. R.S.O. 1927, c. 100, s. 20.

By deed of  
assignment.

**22.** Every tenant in possession, who is not also tenant of the freehold, and who is served with a writ of summons in an action for the recovery of dower shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years' improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the Supreme Court. R.S.O. 1927, c. 100, s. 21.

Duty of  
tenant in  
possession,  
not also  
tenant of  
freehold  
to notify  
landlord.  
Penalty.

**23.** In estimating damages for the detention of dower or the yearly value of the land, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the land by the husband, or after the death of the husband, shall not be taken into account; but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation

Mode of  
estimating  
damages for  
detention of  
dower, etc.

or death, allowing for the general rise, if any, in the price and value of land in the particular locality. R.S.O. 1927, c. 100, s. 22.

#### ASSIGNMENT OF DOWER AFTER JUDGMENT.

Appointment  
of commis-  
sioners to  
admeasure  
the dower,  
etc.

**24.** The sheriff, on receipt of the writ of assignment of dower, shall, by writing under his seal of office, appoint two resident freeholders of his county who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and each of whom would in other respects be eligible to serve as a juror between the parties named in the writ, and an Ontario land surveyor, to be commissioners to admeasure the dower, and the sheriff shall, in such writing, set out a copy of the writ, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R.S.O. 1927, c. 100, s. 23.

Provision in  
case of  
death, etc.,  
of com-  
missioners.

**25.** In the case of the death or refusal to act of any or all of the commissioners so appointed, the sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who may die or refuse to act. R.S.O. 1927, c. 100, s. 24.

Oath of com-  
missioners.

**26.**—(1) Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an oath in the form following:

Form of  
oath.

"I, \_\_\_\_\_, do swear that I am not of kin to the plaintiff (*naming her*) or to the defendant (*naming him*), or in anyway interested in the land out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of \_\_\_\_\_ Esquire, Sheriff of the County of \_\_\_\_\_, as a Commissioner for the admeasure-  
ment of dower between the plaintiff and the defendant according to law."

Return to  
sheriff.

(2) The commissioners shall annex to their report the oaths sworn by them, and return them to the sheriff. R.S.O. 1927, c. 100, s. 25.

Powers and  
liabilities of  
commis-  
sioners.

**27.** After taking and subscribing such affidavit, the commissioners shall, for all purposes in the fulfilment of the duties by law required of them, be considered officers of the court, and shall be entitled to the same immunities and protection and be subject to the same liabilities and proceedings as a sheriff in the discharge of his duty. R.S.O. 1927, c. 100, s. 26.

**28.**—(1) If either party desires to produce a witness before the commissioners, such party may sue out a subpoena *ad testificandum* or *duces tecum* from the office in which the action was commenced, commanding the attendance of such witness at the time and place appointed by the commissioners.

Mode of procuring attendance of witnesses before commissioners.

(2) The person so required to attend shall be entitled to be paid the same fees, allowances, and conduct money as if he had been subpoenaed as a witness in an ordinary action. R.S.O. 1927, c. 100, s. 27.

Payment of witness.

**29.**—(1) It shall be the duty of the commissioners,—

Duties of commissioners.

(a) to admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third of the land mentioned in the writ, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the land mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on such land;

Admeasurement.

(b) to ascertain and determine what permanent improvements have been made upon the land since the death of the plaintiff's husband, or since he alienated the same to a purchaser for value, and if it can be done they shall award the dower out of such part of the land as does not embrace or contain such permanent improvements; but if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements.

Ascertainment of improvements.

(2) If from peculiar circumstances, such as there being a mill or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same.

Assessment of yearly sum in lieu of dower.

Evidence  
on oath.

(3) The evidence shall be taken upon oath, which oath any one of the commissioners is hereby authorized to administer and shall be reduced in writing and subscribed by the witness.

Recovery of  
sum  
assessed.

(4) Such yearly sum shall be a lien upon the land mentioned in the writ or upon such specific portion thereof as the commissioners may direct, and the same shall be recoverable by distress as for rent or by action against the tenant of the freehold for the time being.

Report of  
commis-  
sioners.

(5) The report of the commissioners shall be in writing, subscribed by them and directed to the sheriff, and shall contain a full statement of their proceedings, and, where the dower is assigned by metes and bounds, shall distinctly point out and describe the same, and the posts, stones or other monuments designating the boundaries, and for the purpose of planting and marking the posts, stones or monuments, the commissioners may, if necessary, employ chain-bearers and labourers. R.S.O. 1927, c. 100, s. 28.

Time for  
report.

**30.** The sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report for not more than ten days, and he shall, within twenty-four hours after the receipt thereof, indorse thereon the day and hour of the receipt, and he shall then forthwith return the writ, together with the report and all papers annexed thereto, to the office wherein the action was commenced. R.S.O. 1927, c. 100, s. 29.

Return of  
writ with  
report.

Appeal.

**31.**—(1) Either party, within a month from the filing of the sheriff's return to the writ, or within such further time as the Supreme Court or a judge thereof may allow, may appeal from the report of the commissioners to a judge in Court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon other grounds verified by affidavit and set forth in the notice served.

Order of  
Court  
thereon.

(2) The judge may vary or amend the report, or refer the same back to the commissioners for amendment in whole or in part, with such directions as to law or fact as he may deem proper, or he may confirm or set aside the report and may appoint three new commissioners or direct that the sheriff shall do so, and the new commissioners shall have the same powers and perform the same duties as hereinbefore expressed, and the report of the new commissioners shall be treated as if no other report had been made, and shall be dealt with and proceeded upon accordingly.



(3) If the report is moved against upon the ground of misconduct or fraud on the part of the commissioners, the judge may direct that they be added as parties to the proceeding, and if wilful misconduct or fraud be established the report may be set aside and the commissioners may be adjudged to pay to the parties injured all the costs which have been incurred in respect of proceedings rendered useless by such misconduct or fraud, and all the costs of the proceeding to set aside the report.

Effect of report being appealed from for misconduct, etc.

(4) The appeal or application may be dismissed with or without costs, and the Court may order the party at whose instance, or on whose complaint, the commissioners may have been made parties to pay the commissioners their costs.

Costs of appeal.

(5) If the appeal or application is dismissed, or if the report is not appealed from or moved against within the proper time, the report shall thenceforth be final and conclusive on all parties to the action of dower, and a copy of the report, certified by the registrar under the seal of the Court, may be registered in the proper registry office. R.S.O. 1927, c. 100, s. 30.

Registration of copy of report.

**32.** After such registration the plaintiff shall be entitled to sue out a writ directed to the proper sheriff, commanding him to put her into possession of the land assigned to her for her dower, and to levy all such costs as have been awarded to her against the defendant. R.S.O. 1927, c. 100, s. 31.

When writ of possession may issue.

**33.** The commissioners shall each be entitled to receive from the plaintiff the sum of \$5 for each day's attendance, not exceeding two, and the sum of twenty cents for every hundred words for drawing up their report, and may also charge ten cents for every hundred words of each copy furnished by them to either party. R.S.O. 1927, c. 100, s. 32.

Commissioners' fees.

**34.** The plaintiff shall pay the costs of suing out, and the costs of the commissioners in executing the writ of assignment of dower and making their report, but each party shall pay his own costs of witnesses and of his counsel or solicitor attending before the commissioners. R.S.O. 1927, c. 100, s. 33.

By whom costs to be paid.

(NOTE—As to limitations in the case of claims for dower see *The Limitations Act, Rev. Stat. c. 118.*)

## FORM 1.

(Section 14.)

## CERTIFICATE OF MEDICAL PRACTITIONER.

I, the undersigned \_\_\_\_\_ a legally qualified Medical Practitioner, Gaol Surgeon of the Gaol of the County (or District) of \_\_\_\_\_ (or as the case may be) residing and practising at \_\_\_\_\_ in the County (or District) of \_\_\_\_\_, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ in the County (or District) of \_\_\_\_\_ I separately from any other Medical Practitioner, personally examined A. B. of the Township of \_\_\_\_\_ in the County of \_\_\_\_\_ (or District) of \_\_\_\_\_ wife of C. B., of the Township of \_\_\_\_\_ in the County (or District) of \_\_\_\_\_ and I further certify that the said A. B. is mentally ill and that I have formed this opinion upon the following grounds, namely: (*here state the facts upon which the Certificate is based*).

Signed this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, at \_\_\_\_\_ in the County of \_\_\_\_\_

Witness

R.S.O. 1927, c. 100, Form 1.

## FORM 2.

(Section 14.)

## CERTIFICATE OF JUDGE.

Province of Ontario, }  
County (or District) of \_\_\_\_\_ } I, the undersigned, E.F.,  
Judge of the County (or District) Court of the County (or District) of \_\_\_\_\_ do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I personally examined A.B., of the \_\_\_\_\_ of \_\_\_\_\_ in the County (or District) of \_\_\_\_\_ wife of C.B., of the \_\_\_\_\_ of \_\_\_\_\_ in the County (or District) of \_\_\_\_\_ and that from such personal examination (and from the evidence of G.H. and J.K. adduced before me, (*if evidence has been taken*)) I am of opinion that the said A.B. is mentally ill.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ in the County (or District) of \_\_\_\_\_

R.S.O. 1927, c. 100, Form 2.

## CHAPTER 113.

## The Libel and Slander Act.

1. In this Act "newspaper" shall mean a paper containing public news, intelligence, or occurrences, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two of such papers, parts or numbers, and shall include a paper printed in order to be made public weekly or oftener, or at intervals not exceeding thirty-one days, and containing only, or principally, advertisements. R.S.O. 1927, c. 101, s. 1.

Interpretation.  
"Newspaper."

## LIBEL AND SLANDER.

2. In an action for libel or slander the plaintiff may aver that the words or matter complained of were used in a defamatory sense, specifying the defamatory sense without any prefatory averment to show how the words or matter were used in that sense, and the averment shall be put in issue by the denial of the alleged libel or slander, and where the words or matter set forth, with or without the alleged meaning, show a cause of action, the statement of claim shall be sufficient. R.S.O. 1927, c. 101, s. 2.

Averments  
in actions for  
libel or  
slander.

3. In an action for libel or slander where the defendant has pleaded a denial of the alleged libel or slander only, or has suffered judgment by default, or judgment has been given against him on motion for judgment on the pleadings, he may give in evidence, in mitigation of damages, that he made or offered a written or printed apology to the plaintiff for such libel or slander before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering such apology, that he did so as soon afterwards as he had an opportunity. R.S.O. 1927, c. 101, s. 3.

Apology in  
mitigation of  
damages.

## LIBEL.

4. On the trial of an action for libel the jury may give a general verdict upon the whole matter in issue in the action, and shall not be required or directed to find for the plain-

General  
verdict.

Special  
verdict.

tiff, merely on proof of publication by the defendant of the alleged libel, and of the sense ascribed to it in the action; but the court shall, according to its discretion, give its opinion and directions to the jury on the matter in issue as in other cases, and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases. R.S.O. 1927, c. 101, s. 4.

Consolidation of different actions for same libel.

5.—(1) The court, upon an application by two or more defendants in any two or more actions for the same or substantially the same libel, or for a libel or libels contained in articles the same or substantially the same published in different newspapers, brought by one and the same person, may make an order for the consolidation of such actions so that they shall be tried together, and after such order has been made, and before the trial of such actions, the defendants in any new actions instituted in respect of any such libel or libels shall also be entitled to be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Assessment of damages and apportionment of damages and costs.

(2) In a consolidated action under this section the jury shall assess the whole amount of the damages, if any, in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately, and if the jury find a verdict against the defendant or defendants in more than one of the actions so consolidated they shall apportion the amount of the damages between and against such last mentioned defendants, and the judge at the trial, in the event of the plaintiff being awarded the costs of the action, shall thereupon make such order as he shall deem just for the apportionment of the costs between and against such defendants.

“Article,”  
meaning of.

(3) For the purposes of this section “article” shall include anything appearing in a newspaper as an editorial or as correspondence or otherwise than as an advertisement. R.S.O. 1927, c. 101, s. 5.

#### NEWSPAPER LIBEL

Plea negativing malice and negligence and that apology published.

6. In an action for libel contained in a newspaper, the defendant may plead in mitigation of damages that the libel was inserted therein without actual malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper a full apology for the libel, or if the newspaper



in which the libel appeared is one ordinarily published at intervals exceeding one week, that he offered to publish the apology in any newspaper to be selected by the plaintiff. R.S.O. 1927, c. 101, s. 6.

7.—(1) No action for libel contained in a newspaper shall lie unless the plaintiff has, within six weeks after the publication thereof has come to his notice or knowledge, given to the defendant notice in writing, specifying the statement complained of, which shall be served in the same manner as a statement of claim or by delivering the notice to a grown up person at the place of business of the defendant.

Notice of action.

(2) The plaintiff shall recover only actual damages if it appears on the trial,—

When plaintiff to recover actual damages only.

- (a) that the alleged libel was published in good faith;
- (b) that there was reasonable ground to believe that the publication thereof was for the public benefit;
- (c) that it did not involve a criminal charge;
- (d) that the publication took place in mistake or misapprehension of the facts; and,
- (e) that a full and fair retraction of any statement therein alleged to be erroneous was published either in the next regular issue of the newspaper, or in any regular issue thereof published within three days after the receipt of such notice, and was so published in as conspicuous a place and type as was the alleged libel.

(3) The provisions of this section shall not apply to the case of a libel against any candidate for public office in Ontario, unless the retraction of the charge is made editorially in a conspicuous manner, at least five days before the election. R.S.O. 1927, c. 101, s. 7.

Case of candidate for public office.

8. A defendant may pay into court, with his defence, a sum of money by way of amends for the injury sustained by the publication of any libel to which sections 6 and 7 apply, and, except so far as regards the additional facts hereinbefore required to be pleaded by a defendant, such payment shall have the same effect as payment into court in other cases. R.S.O. 1927, c. 101, s. 8.

Payment into court.

9.—(1) A fair and accurate report published in a newspaper of any proceedings in the Senate or House of Com-

Privileged publications.

mons of Canada, in any Legislative Assembly of any of the provinces of Canada, or in any committee of any of such bodies or of a public meeting, or, except where neither the public nor any newspaper reporter is admitted, of any meeting of a municipal council, school board, board of education, Department of Health, local board of health, or of any other board or local authority formed or constituted under any of the provisions of any public Act of any of the provinces of Canada or of the Parliament of Canada, or of any committee appointed by any of the above-mentioned bodies, and the publication of the whole, or a portion or a fair synopsis, of any report, bulletin, notice or other document, issued for the information of the public from any Government office or department; or by any Department of Health, Minister of Health, medical officer of health, or local board of health, or the publication, at the request of any government or municipal official, commissioner of police, or chief constable, of any notice or report issued by him for the information of the public, shall be privileged, unless it shall be proved that such publication was made maliciously.

Improper  
matter.

(2) Nothing in this section shall authorize the publication of any blasphemous, seditious or indecent matter.

When  
defendant  
refuses to  
publish  
explanation.

(3) The protection intended to be afforded by this section shall not be available as a defence in any proceeding if the plaintiff shows that the defendant has refused to insert in the newspaper making such publication a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff.

Saving.

(4) Nothing in this section shall limit or abridge any privilege now by law existing, or protect the publication of any matter not of public concern or the publication of which is not for the public benefit.

Meaning of  
"public  
meeting."

(5) For the purposes of this section "public meeting" shall mean a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance of discussion of any matter of public concern whether the admission thereto be general or restricted. R.S.O. 1927, c. 101, s. 9.

Imp. Act,  
51-52  
V., c. 64,  
s. 4.

Report of  
proceedings  
in courts.

**10.—(1)** A fair and accurate report without comment in a newspaper of proceedings publicly heard before a court of justice if published contemporaneously with such proceedings shall be absolutely privileged, unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared a reasonable letter or state-

ment of explanation or contradiction by or on behalf of the plaintiff.

(2) Nothing in this section shall authorize the publication of any blasphemous, seditious or indecent matter. R.S.O. 1927, c. 101, s. 10. Improper matter. Imp. Act, 51-52 V., c. 64, s. 4.

**11.**—(1) In an action for libel contained in a newspaper the defendant may, at any time after the delivery of the statement of claim, or the expiry of the time within which it should have been delivered, apply to the court for security for costs, upon notice and an affidavit by the defendant, or his agent, showing the nature of the action and of the defence, that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, that the defendant has a good defence upon the merits, and that the statements complained of were published in good faith, or that the grounds of action are trivial or frivolous, and the court may make an order that the plaintiff shall give security for costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. and the order shall be a stay of proceedings until the security is given. Security for costs.

(2) Where the alleged libel involves a criminal charge the defendant shall not be entitled to security for costs under this Act, unless he satisfies the court that the action is trivial or frivolous, or that the circumstances which under section 7 entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstance that the article complained of involves a criminal charge. Where libel involves a criminal charge.

(3) For the purposes of this section the plaintiff or the defendant or their agents may be examined upon oath at any time after the delivery of the statement of claim. Examination of parties.

(4) An order made under this section by a judge of the Supreme Court shall be final and shall not be subject to appeal, but where the order is made by a local judge an appeal therefrom shall lie to a judge of the Supreme Court sitting in Chambers, whose order shall be final and shall not be subject to appeal. R.S.O. 1927, c. 101, s. 11. When order of judge respecting security final.

**12.** An action for libel contained in a newspaper shall be tried in the county where the chief office of such newspaper is, or in the county wherein the plaintiff resides at the time the action is brought; but upon the application of either party the court may direct the action to be tried, or the dam- Place of trial.

ages to be assessed, in any other county if it appears to be in the interests of justice, or that it will promote a fair trial, and may impose such terms as to the payment of witness fees, and otherwise, as may seem proper. R.S.O. 1927, c. 101, s. 12.

Limitation of actions.

**13.** An action for libel contained in a newspaper shall be commenced within three months after the publication thereof has come to the notice or knowledge of the person defamed; but where an action is brought and is maintainable for a libel published within that period the same may include a claim for any other libel published against the plaintiff by the defendant in the same newspaper within a period of one year before the commencement of the action. R.S.O. 1927, c. 101, s. 13.

Joinder.

Publication of name of publisher and address

**14.**—(1) No defendant shall be entitled to the benefit of sections 7 and 13, unless the name of the proprietor and publisher and address of publication are stated either at the head of the editorials or on the front page of the newspaper.

Copy of newspaper to be *prima facie* evidence.

(2) The production of a printed copy of a newspaper shall be *prima facie* evidence of the publication of the printed copy, and of the truth of the statements mentioned in subsection 1. R.S.O. 1927, c. 101, s. 14.

Service of notices and of writ.

**15.** Service of any notice under this Act and of the writ of summons may be made upon the proprietor or publisher of the newspaper by serving the same upon any grown up person at such address. R.S.O. 1927, c. 101, s. 15.

Evidence in mitigation of damages.

**16.** In an action for libel contained in a newspaper, the defendant may prove in mitigation of damages that the plaintiff has already brought actions for, or has recovered damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as that for which such action is brought. R.S.O. 1927, c. 101, s. 16.

Application of s. 7 (1) and s. 13.

**17.** Subsection 1 of section 7 and section 13 shall only apply to newspapers printed and published in Ontario. R.S.O. 1927, c. 101, s. 17.

#### SLANDER OF WOMEN.

Proof of special damage not required in certain cases.

**18.**—(1) In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery, it shall not be necessary to allege in the plaintiff's statement of claim, or to prove that special damage resulted to the plain-



tiff from the utterance of such words, and the plaintiff may recover damages without averment or proof of special damage.

(2) The defendant may, at any time after the delivery of the statement of claim, apply to the court for security for costs, upon notice and an affidavit showing the nature of the action, and that the plaintiff is not possessed of property sufficient to answer the costs of the action if a verdict or judgment is given in favour of the defendant, and that the defendant has a good defence on the merits, or that the grounds of action are trivial or frivolous, and the court may make an order that the plaintiff shall give security for the costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario, and the order shall be a stay of proceedings until the security is given.

(3) For the purposes of subsection 2 the plaintiff or the defendant may be examined upon oath at any time after the delivery of the statement of claim. R.S.O. 1927, c. 101, s. 18.

Security for costs.

Examination of parties.

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## CHAPTER 114.

## The Seduction Act.

When action maintainable by father or mother.

1. The father or, in case of his death, the mother, whether she remains a widow or has married again, of an unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action if such unmarried female was at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding that such unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1927, c. 102, s. 1.

Proof of service dispensed with.

2. Upon the trial of an action for seduction brought by the father or mother it shall not be necessary to prove any act of service performed by the person seduced, but the same shall in all cases be presumed, and no evidence shall be received to the contrary; but if the father or mother of the person seduced had, before the seduction, abandoned her and refused to provide for and retain her as an inmate of his or her home, then any other person who might at common law have maintained an action for the seduction may maintain such action. R.S.O. 1927, c. 102, s. 2.

When action maintainable by master, etc.

Where father or mother not resident in Ontario.

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at common law to maintain an action for the seduction of an unmarried female, may still maintain such action, if the father or mother be not resident in Ontario at the time of the birth of the child which is born in consequence of the seduction, or being resident therein does not bring an action for the seduction within six months from the birth of the child. R.S.O. 1927, c. 102, s. 3.

Who may maintain action in case of infant orphan.

4. If the father and mother of an unmarried female who has been seduced are both dead, and such unmarried female is under the age of twenty-one, any person who, at the time of the birth of the child which is born in consequence of the seduction, was the legal guardian of, or stood *in loco parentis* to such unmarried female, may maintain an action for the seduction, notwithstanding that such unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1927, c. 102, s. 4.

## CHAPTER 115.

## The Negligence Act.

## 1. In this Act,—

Interpre-  
tation.

(a) "Action" shall include counterclaim;

"Action."

(b) "Defendant" shall include a plaintiff against whom a counterclaim is brought.

"Defend-  
ant."

(c) "Plaintiff" shall include a defendant who counter-claims. 1930, c. 27, s. 2.

"Plaintiff."

2.—(1) Where damages have been caused or contributed to by the fault or neglect of two or more persons the court shall determine the degree in which each of such persons is at fault or negligent, and, except as provided by subsections 2 and 3, where two or more persons are found at fault or negligent, they shall be jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each shall be liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent. 1930, c. 27, s. 3; 1931, c. 26, s. 2; 1935, c. 46, s. 2 (1).

Extent of  
liability,—  
remedy  
over.

(2) In any action brought for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, and the owner or driver of the motor vehicle which the injured or deceased person was being carried in, or upon or entering, or getting on to, or alighting from is one of the persons found to be at fault or negligent, no damages, contribution or indemnity shall be recoverable for the portion of the loss or damage caused by the fault or negligence of such owner or driver, and the portion of the loss or damage so caused by the fault or negligence of such owner or driver shall be determined although such owner or driver is not a party to the action.

Where  
plaintiff is  
passenger.

Where plaintiff is spouse of negligent person.

(3) In any action founded upon fault or negligence and brought for loss or damage resulting from bodily injury to, or the death of any married person where one of the persons found to be at fault or negligent is the spouse of such married person, no damages, contribution or indemnity shall be recoverable for the portion of loss or damage caused by the fault or negligence of such spouse, and the portion of the loss or damage so caused by the fault or negligence of such spouse shall be determined although such spouse is not a party to the action. 1935, c. 46, s. 2 (2).

Plaintiff guilty of contributory negligence.

3. In any action for damages which is founded upon the fault or negligence of the defendant if fault or negligence is found on the part of the plaintiff which contributed to the damages, the court shall apportion the damages in proportion to the degree of fault or negligence found against the parties respectively. 1930, c. 27, s. 4.

Where parties to be deemed equally at fault.

4. If it is not practicable to determine the respective degree of fault or negligence as between any parties to an action, such parties shall be deemed to be equally at fault or negligent. 1930, c. 27, s. 5.

Adding party defendant.

5. Whenever it appears that any person not already a party to an action is or may be wholly or partly responsible for the damages claimed, such person may be added as a party defendant upon such terms as may be deemed just. 1930, c. 27, s. 6.

Jury to determine degrees of negligence of parties.

6. In any action tried with a jury, the degree of fault or negligence of the respective parties shall be a question of fact for the jury. 1930, c. 27, s. 7.

When plaintiff may be liable for costs.

7. Where the damages are occasioned by the fault or negligence of more than one party, the court shall have power to direct that the plaintiff shall bear some portion of the costs if the circumstances render this just. 1930, c. 27, s. 8.

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## CHAPTER 116.

## The Crown Administration of Estates Act.

1. Where in the case of any person dying intestate or intestate as to some part of his estate, it appears that in respect of the interest of His Majesty, administration may be rightfully granted to his nominee, any competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of His Majesty. R.S.O. 1927, c. 104, s. 1.

Where administration may issue to Public Trustee.

2. Where any person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are infants and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for the same, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and any competent court upon such application may grant administration to the Public Trustee for the use and benefit of His Majesty or of such persons as may ultimately appear to be entitled thereto, but where there are adult next of kin residing out of Ontario administration may be granted to the nominee of such next of kin at the discretion of the court. 1930, c. 28, s. 2.

Administration where intestate leaves no known adult next of kin in Ontario.

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within thirty days after the receipt of such notice, apply for a grant of letters of administration as provided in section 2. 1930, c. 28, s. 3.

Notice to Public Trustee.

(2) Where the Public Trustee consents letters of administration may issue to the applicant without waiting for the expiry of thirty days. R.S.O. 1927, c. 104, s. 3 (2).

Letters of administration within thirty days.

4. It shall not be necessary for the Public Trustee to give security for the due administration of the estate, but he shall have all the rights and powers of and be subject to all the liabilities and duties imposed on an administrator. R.S.O. 1927, c. 104, s. 4.

Security dispensed with.

Liability of Public Trustee.

Power to sell  
the real  
estate of the  
intestate.

5. Where administration is granted to the Public Trustee the Lieutenant-Governor in Council may direct the sale, by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee shall thereupon be authorized to sell in accordance with the directions of the Order-in-Council the whole, or any part of such real estate or interest, and to convey the same to the purchaser, and every conveyance by the Public Trustee shall be as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same. R.S.O. 1927, c. 104, s. 5.

Rights of  
relations  
after the  
issue of ad-  
ministration.

6. Where subsequently to the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant-Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee, of a conveyance, and until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1927, c. 104, s. 6.

Inquiry as to  
the rights of  
His Majesty.

7. Where administration is granted under the provisions of this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as may be necessary to determine whether or not His Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin, or otherwise, and any judgment pronounced upon such inquiry shall, unless reversed on appeal, or varied upon a substantive application to the court, be final and conclusive. R.S.O. 1927, c. 104, s. 7.

Recovery by  
Crown of real  
estate of  
persons dy-  
ing intestate  
and without  
heirs.

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs the Public Trustee, without obtaining letters of administration may take possession of such real estate and if necessary may bring an action, either in his own name, on behalf of His Majesty, or in the name of His Majesty, to recover possession of such real estate and shall be entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1927, c. 104, s. 8.

**9.** Where a person has died intestate in Ontario and administration has been granted to some person not one of the next of kin, and it is doubtful whether the intestate left any next of kin him surviving, or there are no known next of kin resident in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and any competent court may revoke such administration, and grant administration to the Public Trustee. R.S.O. 1927, c. 104, s. 9.

Application by Public Trustee to compel an account by administrator in certain cases.

**10.** Money realized from estates to which the Public Trustee is administrator under this Act or which he has recovered under section 8, shall be kept in such bank or invested in such manner as the Lieutenant-Governor in Council may direct, and all such money which has been unclaimed for ten years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1927, c. 104, s. 10.

Disposition of moneys.

**11.** Any person proving title to such money shall be entitled to receive the same with interest at such rate as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 104, s. 11.

Interest on money claimed.

**12.** Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights in respect thereto, and the Court may direct such inquiries as may be necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands the same. R.S.O. 1927, c. 104, s. 12.

Remedy of persons having claims upon the estate.

**13.** The Public Trustee may deduct from the money received on account of any estate all disbursements made by him in respect to inquiries which he may have made before taking out letters of administration, as well as disbursements otherwise made by him in respect to the estate and a commission for his services not exceeding five per centum of all moneys received by him as administrator. R.S.O. 1927, c. 104, s. 13.

Right of Public Trustee to disbursements.

**14.—(1)** After having given the notice provided for by *The Trustee Act*, and notwithstanding that the ten years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining in his hands unclaimed into

Distribution of assets by Public Trustee after notice. Rev. Stat., c. 165.

the Consolidated Revenue Fund, or may pay the same or any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant-Governor in Council, made under section 5 of *The Escheats Act*.

Rev. Stat.,  
c. 148.

Non-liability  
of His  
Majesty  
and the  
Province.

Right to  
follow  
property not  
affected.

(2) In such case no claim shall be maintained against His Majesty or this Province in respect of any money or personal property paid over or assigned to any person under section 5 of *The Escheats Act*, or under this Act; but this shall not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who may have received the same under the authority of an Order-in-Council. R.S.O. 1927, c. 104, s. 14.

(NOTE—See also *The Escheats Act*, Rev. Stat., c. 148.)

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## CHAPTER 117.

## The Settled Estates Act.

## 1.—(1) In this Act,—

Interpreta-  
tion.

(a) "Court" shall mean the Supreme Court;

"Court."

(b) "Income" shall include rents and profits;

"Income."

(c) "Land" shall include incorporeal hereditaments; also an undivided share in land;

"Land."

(d) "Possession" shall include receipt of income;

"Posses-  
sion."(e) "Settled estate" shall mean land and all estates or interests in land which are the subject of a settle-  
ment;"Settled  
estate."(f) "Settlement" shall mean a statute, deed, agree-  
ment, will or other instrument, or any number of  
such instruments, under or by virtue of which  
land or any estate or interest in land stands lim-  
ited to or in trust for any persons by way of suc-  
cession, including any such instruments affect-  
ing the estates of any one or more of such persons  
exclusively."Settle-  
ment."(2) For the purposes of this Act a tenant in tail after  
possibility of issue extinct shall be deemed to be a tenant  
for life.Tenant in  
tail after  
possibility  
of issue  
extinct.(3) All estates or interests in remainder or reversion not  
disposed of by the settlement, and reverting to a settlor or  
descending to the heir, or as upon an intestacy to the repre-  
sentative of a testator, shall be deemed to be estates coming  
to such settlor, heir or representative under or by virtue of  
the settlement.Estates in  
remainder  
or reversion  
not disposed  
of by settle-  
ment.(4) In determining what are settled estates within the  
meaning of this Act the Court shall be governed by the state  
of facts and by the trusts or limitations of the settlement at  
the time of the settlement taking effect. R.S.O. 1927, c. 105,  
s. 1.Determining  
what are  
settled  
estates.  
40-41 V.  
(Imp.), c. 18,  
s. 2.

Power to  
authorize  
leases of  
settled  
estates.  
Imp. Act  
40-41 V., c.  
18, s. 4.

2.—(1) The Court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement, and subject to the provisions and restrictions of this Act, may authorize leases of any settled estate or of any rights or privileges over or affecting any settled estate, for any purpose whatsoever, the following conditions being observed:—

When lease  
to take  
effect.

- (a) Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the Court shall direct, where the Court is satisfied that it is beneficial to the inheritance to grant such a lease.

Best rent  
to be  
reserved.

- (b) On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, and to be incident to the immediate reversion; but in the case of a mining lease, a repairing lease or a building lease a nominal rent or any smaller rent than the rent to be ultimately made payable may, if the Court thinks fit so to direct, be made payable during all or any part of the first five years of the term of the lease.

Exception.

Reservation  
of rent in  
leases of  
earth, coal,  
stone or  
minerals.

- (c) Where the lease is of any earth, coal, stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested, when and so long as the person for the time being entitled to the receipt of such rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work such earth, coal, stone, or mineral for his own benefit, one-fourth part of such rent, and in other cases three-fourth parts thereof, and in every such lease sufficient provision shall be made to ensure such application of that portion of the rent by the appointment of trustees or otherwise, as the Court deems expedient.

Cutting  
timber.

- (d) No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the Court be necessary, nor shall it be made without impeachment of waste.

Form of  
lease.

- (e) Every lease shall be by deed, in duplicate, executed by the lessor and lessee, and shall be subject to

the statutory right of re-entry for non-payment of rent contained in *The Landlord and Tenant Act*.

Rev. Stat.,  
c. 219.

(2) Any such lease may contain an agreement for the renewal or renewals thereof if the Court thinks fit, and the Court may determine the length of time for which such re-renewal or renewals, if any, may be made. R.S.O. 1927, c. 105, s. 2.

Agreements  
for renewal.

3. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants, conditions and stipulations as the Court deems expedient with reference to the special circumstances of the demise. R.S.O. 1927, c. 105, s. 3.

Special  
covenants.

Imp. Act  
40-41 V.,  
c. 18, s. 5.

4. The power to authorize leases conferred by this Act shall authorize leases either of the whole or any part of the settled estate, and may be exercised from time to time. R.S.O. 1927, c. 105, s. 4.

Leases of  
parts of set-  
tled estates.  
Imp. Act  
40-41 V., c.  
18, s. 6.

5. A lease, whether granted in pursuance of this Act or otherwise, may be surrendered either for the purpose of obtaining a renewal of the same or not, and the power to authorize leases conferred by this Act shall authorize a new lease of the whole or any part of the hereditaments comprised in any surrendered lease. R.S.O. 1927, c. 105, s. 5.

Surrender  
and re-  
newal.

Imp. Act,  
40-41 V., c.  
18, s. 7.

6. The power to authorize leases conferred by this Act shall extend to authorize preliminary contracts to grant such leases, and any of the terms of such contracts may be varied in the leases. R.S.O. 1927, c. 105, s. 6.

Preliminary  
contracts.  
Imp. Act  
40-41 V., c.  
18, s. 8.

7. The power to authorize leases conferred by this Act may be exercised by the Court either by approving of a particular lease or by ordering that the power of leasing in conformity with the provisions of this Act, shall be vested in trustees in manner hereinafter mentioned. R.S.O. 1927, c. 105, s. 7.

Mode in  
which leases  
may be  
authorized.

Imp. Act  
40-41 V., c.  
18, s. 10.

8. Where application is made to the Court either to approve of a particular lease or to vest any power of leasing in trustees the Court shall require the applicant to produce such evidence as it deems sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. R.S.O. 1927, c. 105, s. 8.

What evi-  
dence to be  
produced on  
an applica-  
tion to  
authorize  
leases.

Imp. Act  
40-41 V., c.  
18, s. 11.

9. Where a particular lease or contract for a lease has been approved by the Court the Court shall direct what per-

Direction  
as to who  
shall be  
lessor.

Imp. Act  
40-41 V., c.  
18, s. 12.

son shall execute the same as lessor, and the lease or contract executed by such person shall take effect in all respects as if he had been at the time of the execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the Court directs. R.S.O. 1927, c. 105, s. 9.

When  
powers of  
leasing may  
be vested in  
trustees.

Imp. Act  
40-41 V., c.  
18, s. 13.

**10.** Where the Court deems it expedient that any general power of leasing any settled estate conformable with this Act should be vested in trustees it may, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other person or persons, and such power, when exercised by such trustees, shall take effect in all respects as if the power so vested in them had been originally contained in the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the Court shall direct, and in every such case the Court may impose any conditions as to consents or otherwise on the exercise of such power and may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time for the purpose of exercising such power of leasing. R.S.O. 1927, c. 105, s. 10.

Conditions  
that leases  
be settled  
by the  
Court.

Imp. Act  
40-41 V., c.  
18, s. 14.

**11.** In any order under this Act for vesting any power of leasing in any trustees or other person or persons no conditions shall be inserted requiring that the lease thereby authorized shall be submitted to or be settled by the Court or be made conformable with a model lease, unless the person applying for the order desires to have any such condition inserted or it appears to the Court that there is some special reason for the insertion of such a condition. R.S.O. 1927, c. 105, s. 11.

Striking  
out such  
conditions.

Imp. Act  
40-41 V., c.  
18, s. 15.

**12.** In any order, whether under this Act or under any other Act, in which any such condition shall have been inserted any person interested may apply to the Court to alter such order by striking out such condition, and the Court may alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state; but the Court may decline to act under this provision in any case in which it appears to the Court that for any special reason such a condition is necessary or expedient. R.S.O. 1927, c. 105, s. 12.



## COURT MAY AUTHORIZE MORTGAGES OR SALES OF SETTLED ESTATES.

**13.**—(1) The Court, if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act, may,—

Powers of Court.

(a) from time to time authorize a mortgage of the whole or any part of any settled estate for the purpose of raising money to repair, rebuild or alter any existing building upon the estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any incumbrance thereon;

Mortgages for purpose of repairs, etc.

(b) from time to time authorize a sale of the whole or any part of any settled estate or of any easement, right or privilege, of any kind, over or in relation to the same, or of any timber not being ornamental timber growing on the settled estate;

Sales of settled estates and of timber. Imp. Act 40-41 V., c. 18, s. 16.

(c) sanction any action, defence, petition to the Legislature or other proceeding appearing to the Court necessary for the protection of any settled estate, and order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate, or out of any money or investment representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investment, or out of any accumulations of rents, profits or income.

Proceedings for protection of estate. Imp. Act 45-46 V., c. 38, s. 36.

(2) Such mortgage shall be authorized wherever the Court is of opinion that the interests of the estate or any part thereof or of the persons entitled to the estate or any part thereof require, or will be substantially promoted by such mortgage.

When mortgages authorized.

(3) Every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the Court is required in the sale of land under an order of the Court.

How sales conducted.

Rental as consideration for land sold for building.

Imp. Act 40-41 V., c. 18, s. 18.

**14.** Where land is sold for building purposes the Court may allow the whole or any part of the consideration to be a rent issuing out of such land, which may be secured and settled in such manner as the Court approves. R.S.O. 1927, c. 105, s. 14.

What may be reserved.

Imp. Act 40-41 V., c. 18, s. 19.

**15.** On any sale of land, any earth, coal, stone or mineral may be expected and any rights or privileges may be reserved, and the purchaser may be required to enter into any covenants or submit to any restrictions which the Court deems advisable. R.S.O. 1927, c. 105, s. 15.

#### DEDICATION AND MAINTENANCE OF STREETS, ROADS, ETC.

Dedications for streets, etc.

Imp. Act 40-41 V., c. 18, s. 20.

**16.**—(1) The Court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement and subject to the provisions and restrictions of this Act, may from time to time direct that any part of any settled estate be laid out for streets, roads, paths, squares, gardens, or other open spaces, or for sewers, drains or watercourses, either to be dedicated to the public or not, and may direct that the parts so laid out shall, subject to the provisions of this Act, remain vested in the trustees of the settlement or be conveyed to or vested in any other trustees upon such trusts for securing the continued appropriation thereof to such purposes in all respects and with such provisions for the appointment of new trustees when required as the Court deems advisable.

How provision made for laying out streets, etc.

Imp. Act 40-41 V., c. 18, s. 21.

(2) Where any part of any settled estate is directed to be laid out for such purposes the Court may direct that open spaces, sewers, drains or watercourses, including all necessary and proper fences, pavings, connections and other works incidental thereto, be made and executed, and that all or any part of the expenses in relation to such laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate or any part thereof, or out of any money or investments representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investments, or out of any accumulations of rents, profits or income, and the Court may also give such directions as it deems advisable for any repair or maintenance of any such streets, roads, paths, squares, gardens or other open spaces, sewers, drains or watercourses or other works out of any such rents, profits, income or accumulations during such period as the Court deems advisable.

(3) The powers hereby granted shall be exercised subject Restrictions. to the provisions of *The Registry Act*, *The Land Titles Act*, Rev. Stat., cc. 170, 174, *The Municipal Act*, *The Planning and Development Act* and 266, 270. of any other Act dealing with the subdivision of land and the registration of plans. R.S.O. 1927, c. 105, s. 16.

HOW SALES, MORTGAGES AND DEDICATIONS ARE TO BE EFFECTED  
UNDER THE DIRECTIONS OF THE COURT.

**17.** On every sale, mortgage or dedication made under the authority of this Act the Court may direct what person shall execute the deed of conveyance or mortgage, and the deed or mortgage executed by such person shall take effect as if the settlement had contained a power enabling such person to effect such sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the Court directs. R.S.O. 1927, c. 105, s. 17.

Directions as to execution of deeds. Imp. Act 40-41 V. c. 18, s. 22.

**18.—(1)** Any of the persons authorized by section 32 to make a demise of a settled estate, and any person entitled to the possession or to the receipt of the rents and profits of a settled estate for any greater estate than the estate mentioned in that section and the assigns of any such person may apply to the Court to exercise the powers conferred by this Act.

Who may apply for exercise of powers. Imp. Act 40-41 V. c. 18, s. 23.

(2) Where two or more persons are entitled as tenants in common, joint tenants or co-parceners, any or either of them may make the application. R.S.O. 1927, c. 105, s. 18.

Where jointly entitled.

**19.—(1)** Subject to the exceptions hereinafter mentioned every application to the Court under this Act shall be made with the concurrence or consent of the following persons:

With whose consent such application to be made. Imp. Act 40-41 V. c. 18, s. 24.

(a) Where there is a tenant in tail under the settlement in existence and of full age the persons to concur or consent shall be such tenant in tail, or if there is more than one such tenant in tail then the first of such tenants in tail and all persons in existence having any beneficial estate or interest under or by virtue of the settlement prior to the estate of such tenant in tail, and all trustees having any estate or interest on behalf of any unborn child prior to the estate of such tenant in tail; and

(b) In every other case the persons to concur or consent shall be all those in existence having any beneficial estate or interest under or by virtue of the settlement and also all trustees having any estate or interest on behalf of any unborn child.

Notice to persons who do not consent or concur.

(2) Where the concurrence or consent of any person mentioned in subsection 1 has not been obtained notice shall be given to such person in such manner as the Court directs, requiring him to notify within a time to be specified in such notice whether he assents to or dissents from such application or submits his rights or interests, or so far as they may be affected by such application, to be dealt with by the Court, and every such notice shall specify to whom and in what manner such notification is to be delivered or left.

Effect of non-reply.

Imp. Act 40-41 V., c. 18, s. 26.

(3) If no notification is delivered or left in accordance with the notice and within the time thereby limited the person to or for whom such notice shall have been given or left shall be deemed to have submitted his rights and interests to be dealt with by the Court.

When Court may dispense with notice.

Imp. Act 40-41 V., c. 18, s. 27.

(4) Where the concurrence or consent of any such person has not been obtained, and if such person cannot be found or if it is uncertain whether he is living or dead, or if it appears to the Court that such notice cannot be given to him without expense disproportionate to the value of the subject matter of the application, the Court if it thinks fit, either on the ground of the rights or interests of such persons being small or remote or being similar to the rights or interests of any other person or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the Court.

When Court may dispense with consent.

Imp. Act 40-41 V., c. 18, s. 28.

(5) An order may be made notwithstanding that the concurrence or consent of any such person has not been obtained or has been refused, but the Court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the Court, and to the estates or interests which such persons respectively have or claim to have in the estate, and every order made upon such application shall have the same effect as if all such persons had been consenting parties thereto.

Order saving rights of non-consenting parties.

Imp. Act 40-41 V., c. 18, s. 29.

(6) The Court may give effect to any application subject to, and so as not to affect the rights, estate or interest of any person whose concurrence or consent has been refused, or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the Court, or whose rights, estate or interest ought in the opinion of the Court to be excepted. R.S.O. 1927, c. 105, s. 19.



**20.** Notice of any application under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent to or concurrence in the application is hereby required, and on any other persons who in the opinion of the Court ought to be so served, unless the Court dispenses with such notice. R.S.O. 1927, c. 105, s. 20.

Notice to trustees, etc.

Imp. Act 40-41 V., c. 18, s. 30.

**21.** Notice of any application, if the Court so directs but not otherwise, shall be published in such newspapers as the Court directs, and any person, whether interested in the estate or not, may be heard in opposition to or in support of the application, and the Court may permit such person to appear and be heard in opposition to or in support of the application on such terms as to costs or otherwise and in such manner as it thinks fit. R.S.O. 1927, c. 105, s. 21.

When notice of application to be given in the newspapers.

Imp. Act '40-41 V., c. 18, s. 31.

**22.** The Court shall not grant an application where the applicant, or any person entitled, has previously applied to this Legislature for a private Act to effect the same or a similar object, and such application has been rejected on its merits, or reported against by the judges to whom the Bill was referred. R.S.O. 1927, c. 105, s. 22.

Where a similar application has been rejected by the Legislature.

Imp. Act 40-41 V., c. 18, s. 32.

#### APPLICATION OF MONEY ARISING FROM SALES, ETC.

**23.** All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone or minerals may, if the Court thinks fit, be paid to any trustees of whom it shall approve, otherwise the same shall be paid into Court, and such money shall be applied as the Court shall from time to time direct to one or more of the following purposes,—

Payment of money arising from sales or set aside out of rent, etc., reserved on mining leases.

Imp. Act 40-41 V., c. 18, s. 34.

- (a) the payment of any costs which the Court orders to be paid; or
- (b) the discharge of any incumbrance affecting the land in respect of which such money was paid, or affecting any other land subject to the same uses or trusts; or
- (c) the purchase of other land to be settled in the same manner as the land in respect of which the money was paid; or
- (d) the payment of the expenses connected with any buildings, repairs, rebuilding, alterations or improvements authorized to be made upon the settled estate; or

Application. Costs.

Incumbrances.

Purchases.

Expenses of improvements.

Person  
entitled.

(e) the payment to any person becoming absolutely entitled. R.S.O. 1927, c. 105, s. 23.

Application  
of money in  
certain cases  
without  
application  
to Court.

Imp. Act 40-  
41 V., c. 18,  
s. 35.

**24.** The application of the money if the Court so directs may be made by the trustees to whom the Court has authorized the same to be paid, without any application to the Court, or upon an order of the Court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1927, c. 105, s. 24.

Payment of  
interest.

Imp. Act 40-  
41 V., c. 18,  
s. 36.

**25.** Until the money can be so applied the interest accruing thereon shall be paid as the Court directs to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1927, c. 105, s. 25.

Application  
of money  
in respect of  
leases or  
reversions.

Imp. Act 40-  
41 V., c. 18,  
s. 37.

**26.** Where any purchase money paid into Court or to trustees under the provisions of this Act has been paid in respect of a lease for a life or lives or years, or for a life or lives and years, or of any estate in land less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the Court may, on the petition of any person interested in such money, order that the interest which shall accrue thereon be paid in such manner as the Court considers will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which such money has been paid, or as near thereto as may be. R.S.O. 1927, c. 105, s. 26.

#### EXERCISE OF POWERS BY COURT.

Court may  
exercise  
powers re-  
peatedly.

**27.—(1)** The Court may exercise any of the powers conferred on it by this Act whether the Court shall have already exercised any of such powers in respect of the same property or not; but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement.

Notwith-  
standing  
express  
powers.

Imp. Act 40-  
41 V., c. 18,  
s. 38.

**(2)** The circumstance that the settlement contains powers to effect similar purposes shall not preclude the Court from exercising any of the powers conferred by this Act if it thinks that the powers contained in the settlement ought to be extended. R.S.O. 1927, c. 105, s. 27.

Extent of  
powers.

**28.** Nothing in this Act shall empower the Court to authorize any lease, mortgage, sale or other act beyond the

extent to which, in the opinion of the Court, the same might have been authorized in and by the settlement by the settlor. Imp. Act 40-41 V., c. 18, s. 39.  
R.S.O. 1927, c. 105, s. 28.

#### ACTS AND ORDERS OF COURT CONCLUSIVE.

**29.** After the completion of any lease, mortgage or sale, or other act under the authority of the Court and purporting to be in pursuance of this Act, the same shall not be invalidated on the ground that the Court was not empowered to authorize the same. Validity of Acts.  
Imp. Act 40-41 V., c. 18, s. 40; 44-45 V., c. 41, s. 70. R.S.O. 1927, c. 105, s. 29.

**30.**—(1) An order of the Court under jurisdiction conferred by this Act shall not, as against a lessee, mortgagee or purchaser, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service, whether he had or had not notice of any such want. Orders of Court conclusive.  
Imp. Act 44-45 V., c. 41, s. 70.

(2) This section shall have effect with respect to any lease, mortgage, sale or other act under the authority of the Court and purporting to be in pursuance of this Act, or to be in pursuance of any former Act, notwithstanding any exception in such former Act. Scope of section. R.S.O. 1927, c. 105, s. 30.

#### COSTS.

**31.** The Court may order that any costs or expenses of any persons of and incident to any application under this Act shall be a charge on the land which is the subject of the application, or on any other land included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under the provisions of this Act, and the Court may also direct that such costs and expenses, to be taxed and paid as the Court directs, shall be raised by a sale or mortgage of a sufficient part of such land or out of the rents or profits thereof. Costs.  
Imp. Act 40-41 V., c. 18, s. 41. R.S.O. 1927, c. 105, s. 31.

#### LEASES BY TENANTS FOR LIFE, ETC.

**32.**—(1) The following persons, unless the settlement contains an express declaration that it shall not be lawful for them to make the demise, may from time to time and without any application to the Court, except as hereinafter mentioned, demise the settled estate or any part thereof for any term, not exceeding twenty-one years, to take effect in possession at or within one year next after the making thereof,— Power to make leases for 21 years.

By tenants  
for life.

- (a) a person entitled to the possession or to the receipt of the rents and profits of any settled estate, for an estate for life or for a term of years determinable with any life or lives or for any greater estate not holding merely under a lease at a rent;

By tenants  
in tail.

- (b) a tenant in tail, including a tenant in tail who is by statute restrained from barring or defeating his entail and although the reversion is in the Crown and so that the exercise by him of his powers under this Act shall bind the Crown, but not including such a tenant in tail where the land in respect of which he is so restrained was purchased with money provided by any legislation in consideration of public services;

In fee  
simple.

- (c) a tenant in fee simple with an executory limitation, gift or disposition over on failure of his issue or in any other event;

By holder of  
base fee.

- (d) a person entitled to a base fee, although the reversion is in the Crown and so that the exercise by him of his powers under this Act shall bind the Crown;

Tenant for  
years.

- (e) a tenant for years determinable on life not holding merely under a lease at a rent;

Pur autre  
vie.

- (f) a tenant for the life of another not holding merely under a lease at rent;

For life  
defeasible.

- (g) a tenant for his own or any other life or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate or by conditional limitation or otherwise, or to be defeated by an executory limitation, gift or disposition over, or is subject to a trust for accumulation of income for payment of debts or any other purpose;

Tenant  
in tail.

- (h) a tenant in tail after possibility of issue extinct;

Person  
entitled to  
income.

- (i) a person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life whether subject to expenses of management or not or until sale of the land or until forfeiture of his interest therein on bankruptcy or other event.



(2) The powers conferred by subsection 1 may be exercised by a person entitled to the possession or to the receipt of the rents and profits of unsettled land as tenant by the curtesy or tenant in dower. Curtsey and dower.

(3) Any of the persons empowered by subsections 1 and 2 to make a demise may also make,— Additional powers.

(a) a lease for giving effect to a contract entered into by any of his predecessors in title for making a lease which, if made by the predecessor, would have been binding on the successors in title; and In pursuance of contract.

(b) a lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled estate; and In pursuance of covenant for renewal.

(c) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require. For confirmation.

(4) Where two or more persons are under the same settlement or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipts of the rents and profits as in subsection 1 mentioned, they shall, for the purposes of this section, act concurrently. Joint action.

(5) Every demise made under this section shall be by deed in duplicate, and for the best rent that can reasonably be obtained, which rent shall be incident to the immediate reversion and shall be made payable half yearly or oftener. Form of lease.

(6) Such demise shall not be made without impeachment of waste and shall not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and shall contain a covenant for payment of the rent and such other usual and proper covenants as the lessor shall think fit, and shall be subject to the statutory right of re-entry for non-payment of rent contained in *The Landlord and Tenant Act*. R.S.O. 1927, c. 105, s. 32. Conditions.

**33.**—(1) Every demise of a settled estate authorized by section 32 shall be valid against the person granting the same and all other persons entitled to estates subsequent to his estate under or by virtue of the same settlement. Against whom leases shall be valid. Rev. Stat., c. 219. Imp. Act 40-41 V., c. 18. s. 47.

Idem.

(2) Every demise of unsettled land by a tenant by the curtesy or by a tenant in dower shall be valid against the person granting the same and all other persons entitled to an estate subsequent to the estate of such tenant. R.S.O. 1927, c. 105, s. 33.

PROVISIONS AS TO APPLICATIONS, CONSENTS, ETC.

Provisions as to persons under disability.

Imp. Act 40-41 V., c. 18, s. 49.

**34.** All powers given by this Act, and all applications to the Court under this Act and consents to and notifications respecting them, may be executed, made or given by, and all notices under this Act may be given to committees on behalf of mentally incompetent persons, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents, and the Official Guardian or any other guardian *ad litem* may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf of any infant or person of unsound mind not so found; but in the case of infants or mentally incompetent persons, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* shall be subject to the approbation of the Court. R.S.O. 1927, c. 105, s. 34.

Married women.

Imp. Act 40-41 V., c. 18, s. 52.

**35.** A married woman may make or consent to or oppose any application whether she is or is not of full age. R.S.O. 1927, c. 105, s. 35.

No obligation to make or consent to application.

Imp. Act 40-41 V., c. 18, s. 53.

**36.** Nothing in this Act shall impose any obligation on any person to make or consent to any application to the Court or to exercise any power. R.S.O. 1927, c. 105, s. 36

Tenants for life, etc., to be deemed entitled notwithstanding incumbrances.

Imp. Act 40-41 V., c. 18, s. 54.

**37.** A person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of an estate although his estate may be charged or encumbered, either by himself or by the settlor or otherwise, to any extent; but the estates or interests of the persons entitled to the charge or encumbrance shall not be affected by the acts of such persons unless they concur therein. R.S.O. 1927, c. 105, s. 37.

Powers conferred by other Acts. 40-41 V., c. 18, s. 59.

**38.** Nothing in this Act shall interfere with the exercise of any powers to authorize or grant leases conferred by any other statute. R.S.O. 1927, c. 105, s. 38.

## CHAPTER 118.

## The Limitations Act.

## 1. In this Act,—

Interpreta-  
tion.

- (a) "Action" shall include an information on behalf of the Crown and any civil proceeding; "Action."
- (b) "Assurance" shall mean any deed or instrument, other than a will, by which land may be conveyed or transferred; "Assur-  
ance."
- (c) "Land" shall include messuages and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties or any of them, any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interest or any of them, are in possession, reversion, remainder or contingency; and "Land."
- (d) "Rent" shall include all annuities and periodical sums of money charged upon or payable out of land. "Rent."  
R.S.O. 1927, c. 106, s. 1.

## PART I.

## REAL PROPERTY.

2. Nothing in this Act shall interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R.S.O. 1927, c. 106, s. 2. Refusing  
relief because  
of acquies-  
cence or  
otherwise.  
Imp. Act,  
3-4 W. IV.,  
c. 27, s. 27.

3.—(1) No entry, distress, or action shall be made or brought on behalf of His Majesty against any person for the recovery of or respecting any land or rent, or of land or for or concerning any revenues, rents, issues or profits, but Limitation  
where the  
Crown  
interested.

within sixty years next after the right to make such entry or distress or to bring such action shall have first accrued to His Majesty.

Application of certain sections to Crown.

(2) Subsections 1 to 3, 5 to 7, and 9 to 12 of section 5 and sections 6, 8 to 11 and 13 to 15 shall apply to rights of entry, distress or action asserted by or on behalf of His Majesty. R.S.O. 1927, c. 106, s. 3.

Limitation where the subject interested.

4. No person shall make an entry or distress, or bring an action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims, or if such right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R.S.O. 1927, c. 106, s. 4.

Imp. Acts, 3-4 W. IV., c. 27, s. 2; 37-38 V., c. 57, s. 1.

When right accrues on dispossession.

5.—(1) Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were so received.

Imp. Act, 3-4 W. IV., c. 27, s. 3.

On death. Imp. Act, 3-4 W. IV., c. 27, s. 3.

(2) Where the person claiming such land or rent claims the estate or interest of a deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, such right shall be deemed to have first accrued at the time of such death.

On alienation. Imp. Act, 3-4 W. IV., c. 27, s. 3.

(3) Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by an assurance, to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such assurance has been in possession or receipt, such right shall be deemed to have first accrued at the time at which the person so claiming or the person, through whom he claims, became entitled to such possession or receipt by virtue of such assurance.



(4) In the case of land granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some part thereof, and of which some other person not claiming to hold under such grantee has been in possession, such possession having been taken while the land was in a state of nature, then unless it is shown that such grantee or person claiming under him while entitled to the land had knowledge of the same being in the actual possession of such other person, the lapse of ten years shall not bar the right of such grantee or any person claiming under him to bring an action for the recovery of such land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained; but no such action shall be brought or entry made after twenty years from the time such possession was taken.

As to land not cultivated or improved.

(5) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person so wrongfully claiming, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

Where rent reserved by lease in writing has been wrongfully received.  
Imp. Act, 3-4 W. IV., c. 27, s. 9.

(6) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened.

Where tenancy from year to year.  
Imp. Act, 3-4 W. IV., c. 27, s. 8.

(7) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of

In the case of a tenant at will.  
Imp. Act, 3-4 W. IV., c. 27, s. 7.

the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined.

Case of mortgagor or *cestui que trust*.

(8) No mortgagor or *cestui que trust* shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of subsection 7.

In case of forfeiture or breach of condition. Imp. Act, 3-4 W. IV., c. 27, s. 3.

(9) Where the person claiming such land or rent, or the person through whom he claims, has become entitled by reason of any forfeiture or breach of condition such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken.

Where advantage of forfeiture is not taken by remainder man. Imp. Act, 3-4 W. IV., c. 27, s. 4.

(10) Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

In case of future estates. Imp. Act, 3-4 W. IV., c. 27, s. 3.

(11) Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

Further provision for cases of future estates. Imp. Act, 3-4 W. IV., c. 27, s. 5, 37-38 V. c., 57, s. 2.

(12) A right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land has been held or the profits thereof or such rent have been received, notwithstanding that the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which have determined, been in the possession or receipt of the profits of such land, or in receipt of such rent. R.S.O. 1927, c. 106, s. 5.

6.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made and no such action shall be brought by any person becoming entitled in possession to a future estate or interest, but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

Limitation in case of future estates when person entitled to the particular estate out of possession, etc. Imp. Act, 37-38 V., c. 57, s. 2.

(2) If the right of any such person to make such entry or distress, or to bring any such action, has been barred no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress or to bring an action for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined, shall make any such entry or distress, or bring any such action, to recover such land or rent.

The case of bar of future estate and of a subsequent interest created after right of entry, etc., accrued to owner of particular estate. Imp. Act, 37-38 V., c. 57, s. 2.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period which is applicable in such case, and such person has, at any time during such period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or by any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R.S.O. 1927, c. 106, s. 6.

Bar of right to future estates acquired after bar of particular estate. Imp. Act, 3-4 W. IV., c. 27, s. 20.

7. For the purposes of this Act an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S.O. 1927, c. 106, s. 7.

When right of action devolves to administrator. Imp. Act, 3-4 W. IV., c. 27, s. 6.

Effect of  
mere entry.  
Idem, s. 10.

**8.** No person shall be deemed to have been in possession of any land, within the meaning of this Act, merely by reason of having made an entry thereon. R.S.O. 1927, c. 106, s. 8.

Continual  
claim.  
Idem, s. 11.

**9.** No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action. R.S.O. 1927, c. 106, s. 9.

Descent cast,  
discontinu-  
ance,  
warranty,  
etc.  
Idem, s. 39.

**10.** No descent cast, discontinuance or warranty, which has happened or been made since the 1st day of July, 1834, or which may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R.S.O. 1927, c. 106, s. 10.

Possession of  
one coparc-  
ner, etc.  
Idem, s. 12.

**11.** Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common has or have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of, or by such last mentioned person or persons, or any of them. R.S.O. 1927, c. 106, s. 11.

Possession of  
relations.  
Idem, s. 13.

**12.** Where a relation of the persons entitled, as heirs, to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S.O. 1927, c. 106, s. 12.

Effect of  
acknowledg-  
ment in  
writing.  
Idem, s. 14.

**13.** Where any acknowledgment in writing of the title of the person entitled to any land or rent has been given to him or to his agent, signed by the person in possession or in receipt of the profits of such land, or in the receipt of such rent, such possession or receipt of or by the person by whom such acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgement was given at the time of giving the same, and the right of such last mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S.O. 1927, c. 106, s. 13.



**14.** The receipt of the rent payable by any lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S.O. 1927, c. 106, s. 14.

Effect of receipt of rent.  
Idem, s. 35.

**15.** At the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period shall be extinguished. R.S.O. 1927, c. 106, s. 15.

Extinguishment of right at the end of the period of limitation.  
Idem, s. 34.

**16.** Nothing in the foregoing sections shall apply to any waste or vacant land of the Crown whether surveyed or not, nor to lands included in any allowance for road heretofore or hereafter surveyed and laid out or to any lands reserved or set apart or laid out as a public highway where the freehold in any such road allowance or highway is vested in the Crown or in a municipal corporation, commission or other public body, but nothing in this section contained shall be deemed to affect or prejudice any right, title or interest acquired by any person before the 13th day of June, 1922. R.S.O. 1927, c. 106, s. 16.

Waste or vacant land of Crown excepted.

### *Arrears of Rent, and Interest.*

**17.**—(1) No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, whether it is or is not charged upon land, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, or action, but within six years next after the same respectively has become due, or next after any acknowledgment in writing of the same has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent.

Maximum of arrears of rent or interest recoverable.  
Idem, s. 42.

(2) This section shall not apply to an action for redemption brought by a mortgagor or any person claiming under him. R.S.O. 1927, c. 106, s. 17.

Exception as to action for redemption.

**18.** Where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover

Exception in favour of subsequent mortgagee when a prior mortgagee has been in possession.  
Idem, s. 42.

in such action the arrears of interest which have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt, although such time may have exceeded such term of six years. R.S.O. 1927, c. 106, s. 18.

*Mortgages and Charges on Land.*

Limitation  
where a  
mortgagee  
in posses-  
sion.

Imp. Acts,  
3-4 W. IV.,  
c. 27, s. 28;  
and 37-38 V.,  
c. 57, s. 7.

**19.** Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage, but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him, and in such case no such action shall be brought, but within ten years next after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given. R.S.O. 1927, c. 106, s. 19.

Acknow-  
ledgement  
to one of  
several

mortgagors.  
Imp. Acts,  
3-4 W. IV.,  
c. 27, s. 28;  
37-38 V.,  
c. 57, s. 7.

**20.** Where there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons. R.S.O. 1927, c. 106, s. 20.

Acknowledg-  
ment to one  
of several  
mortgagees.

3-4 W. IV.,  
c. 27, s. 28;  
37-38 V.,  
c. 57, s. 7.

**21.** Where there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the person or persons so signing, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on

payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R.S.O. 1927, c. 106, s. 21.

**22.** Any person entitled to or claiming under a mortgage of land may make an entry or bring an action to recover such land, at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R.S.O. 1927, c. 106, s. 22.

Limitation where mortgage in arrears.  
Imp. Acts 7 W. IV., and 1 V., c. 28.

**23.**—(1) No action shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, whether it is or is not charged upon land, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money or some interest thereon has been paid, or some acknowledgment in writing of the right thereto signed by the person by whom the same is payable, or his agent, has been given to the person entitled thereto or his agent, and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one, was made or given.

Limitation in case of money charged upon land and legacies.  
Imp. Acts, 3-4 W. IV., c. 27, s. 40; and 37-38 V., c. 57, s. 8.

(2) Notwithstanding the provisions of subsection 1, a lien or charge created by the placing of an execution or other process against land in the hands of the sheriff, or other officer to whom it is directed, shall remain in force so long as such execution or other process remains in the hands of such sheriff or officer for execution and is kept alive by renewal or otherwise. R.S.O. 1927, c. 106, s. 23.

Case of execution against land.

**24.** No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust. R.S.O. 1927, c. 106, s. 24.

Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising same.  
Imp. Act, 37-38 V., c. 57, s. 10.

*Dower.*

Limitation of action of dower.

**25.** Subject to the provisions of section 26, no action of dower shall be brought but within ten years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her. R.S.O. 1927, c. 106, s. 25.

Time from which right to bring action of dower to be computed.

**26.** Where a dowress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with an heir or devisee of, or a person claiming by devolution from her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the dowress ceased. R.S.O. 1927, c. 106, s. 26.

Maximum of arrears of dower recoverable.  
Imp. Act, 3-4 W. IV., c. 27, s. 41.

**27.** No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R.S.O. 1927, c. 106, s. 27.

*Estates Tail.*

Limitation in case of those whose rights tenant in tail could have barred.  
Imp. Act, 3-4 W. IV., c. 27, s. 21.

**28.** Where the right of a tenant in tail of any land or rent to make an entry or distress, or to bring an action to recover the same, has been barred by reason of the same not having been made or brought within the period limited by this Act, no such entry, distress or action shall be made or brought by any person claiming any estate, interest or right which such tenant in tail might lawfully have barred. R.S.O. 1927, c. 106, s. 28.

Case where tenant in tail has died during period of limitation.  
Idem, s. 22.

**29.** Where a tenant in tail of any land or rent, entitled to recover the same, has died before the expiration of the period applicable in such case for making an entry or distress or bringing an action to recover such land or rent, no person claiming any estate, interest or right which such tenant in tail might lawfully have barred, shall make an entry or distress, or bring an action, to recover such land or rent, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. R.S.O. 1927, c. 106, s. 29.

Where possession under an assurance by a tenant in tail does not bar the remainders.

**30.** Where a tenant in tail of any land or rent has made an assurance thereof, which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person is by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, in



possession or receipt of the profits of such land, or in the receipt of such rent, and the same person, or any other person, other than a person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail, continues or is in such possession or receipt for the period of ten years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates, then, at the expiration of such period of ten years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. R.S.O. 1927, c. 106, s. 30.

Imp. Acts,  
3-4 W. IV.,  
c. 27, s. 23;  
and 37-38 V.,  
c. 57, s. 6.

### *Concealed Fraud.*

**31.** In every case of a concealed fraud the right of any person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered. R.S.O. 1927, c. 106, s. 31.

Cases where  
fraud  
remains  
concealed.  
Imp. Act,  
3-4 W. IV.,  
c. 27, s. 26.

**32.** Nothing in section 31 shall enable any owner of land or rent to bring an action for the recovery of such land or rent, or for setting aside any conveyance thereof, on account of fraud against any purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed. R.S.O. 1927, c. 106, s. 32.

Case of *bona fide* purchaser for value without notice.  
Idem, s. 26.

### *Prescription in Case of Easements.*

**33.** No claim which may be lawfully made at the common law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or of any person, except such matters or things as are hereinafter specially provided for, and except rent and services, where such profit or benefit has been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, shall be defeated or destroyed by showing only that such profit or benefit was first taken or enjoyed at any time prior to such period of

Limitation  
in case of  
profits.  
Imp. Act,  
2-3 W. IV.,  
c. 71, s. 1.

Indefeasible  
if enjoyed  
over 60  
years.

thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated, and when such profit or benefit has been so taken and enjoyed for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was taken and enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1927, c. 106, s. 33.

Right of  
way.

Easements  
or water  
course.

Idem, s. 2.

**34.** No claim which may lawfully be made at the common law by custom, prescription or grant, to any way or other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over, or from any land or water of the Crown or being the property of any person, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by showing only that such way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated, and where such way or other matter as herein last before mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1927, c. 106, s. 34.

Indefeasible  
if enjoyed  
over 40  
years.

How period  
to be calcu-  
lated, and  
what acts  
deemed an  
interruption.  
Idem, s. 4.

**35.** Each of the respective periods of years in sections 33 and 34 mentioned shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question, and no act or other matter shall be deemed an interruption within the meaning of those sections, unless the same has been submitted to or acquiesced in for one year after the person interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S.O. 1927, c. 106, s. 35.

Right to  
access and  
use of  
light by  
prescription  
abolished.

**36.** No person shall acquire a right by prescription to the access and use of light or to the access and use of air to or for any dwelling-house, work-shop or other building, but this section shall not apply to any such right acquired by twenty years' use before the 5th day of March, 1880. R.S.O. 1927, c. 106, s. 36.

Necessity for  
strict proof.  
Idem, s. 6.

**37.** In the cases mentioned in and provided for by this Act, of claims to ways, water-courses, or other easements, no

presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R.S.O. 1927, c. 106, s. 37.

**38.** No easement in respect of wires or cables attached to property or buildings or passing through or carried over such property or buildings shall be deemed to have been acquired or shall hereafter be acquired by prescription or otherwise than by grant from the owner of such property or buildings. R.S.O. 1927, c. 106, s. 38.

Easements not acquired for carrying wires and cables.

#### DISABILITIES AND EXCEPTIONS.

##### *1.—In Cases of Land or Rent.*

**39.** If at any time at which the right of any person to make an entry or distress, or to bring an action to recover any land or rent, first accrues, as herein mentioned, such person is under any of the disabilities hereinafter mentioned, that is to say: infancy, mental deficiency, mental incompetency or unsoundness of mind, such person, or the person claiming through him, notwithstanding that the period of ten years or five years, as the case may be, hereinbefore limited has expired, may make an entry or distress, or bring an action, to recover such land or rent at any time within five years next after the time at which the person to whom such right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R.S.O. 1927, c. 106, s. 39.

Persons under disability at the time when the right of action accrues. Imp. Acts, 3-4 W. IV., c. 27, s. 16; 37-38 V., c. 57, s. 3.

**40.** No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action, to recover any land or rent first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such twenty years, or although the term of five years from the time at which he ceased to be under any such disability or died, may not have expired. R.S.O. 1927, c. 106, s. 40.

Utmost allowance for disabilities. Imp. Acts, 3-4 W. IV., c. 27, s. 17; 37-38 V., c. 57, s. 5.

**41.** Where any person is under any of the disabilities hereinbefore mentioned, at the time at which his right to

Case of a succession of disabilities.

Imp. Acts,  
3-4 W. IV.,  
c. 27, s. 18;  
37-38 V.,  
c. 57, s. 9.

make an entry or distress, or to bring an action to recover any land or rent first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued or the period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1927, c. 106, s. 41.

## 2.—*In Cases of Easements.*

Cases of  
persons  
under  
disability  
when right  
accrues.  
Imp. Act,  
2-3 W. IV.,  
c. 71, s. 7.

**42.** The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 33 to 38, is an infant, mentally defective person, mentally incompetent person, of unsound mind, or tenant for life, or during which any action has been pending and has been diligently prosecuted, shall be excluded in the computation of the period in such sections mentioned, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S.O. 1927, c. 106, s. 42.

Exclusion of  
terms of  
years, etc.,  
from com-  
putation in  
certain cases.  
Imp. Act,  
2-3 W. IV.,  
c. 21, s. 8.

**43.** Where any land or water upon, over or from which any such way or other easement, water-course or use of water has been enjoyed or derived, has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned during the continuance of such term shall be excluded in the computation of the period of forty years, mentioned in section 34, if the claim is within three years next after the end, or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R.S.O. 1927, c. 106, s. 43.

Exception as  
to lands of  
the Crown  
not duly  
surveyed and  
laid out.

**44.** Nothing in sections 33 to 38 shall support or maintain any claim to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of the Crown, unless such land, way, easement, water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by authority of the Crown. R.S.O. 1927, c. 106, s. 44.



## PART II.

## TRUSTS AND TRUSTEES.

**45.** This Part shall apply to a trust created by an instrument or an Act of this Legislature heretofore or hereafter executed or passed. R.S.O. 1927, c. 106, s. 45.

**46.**—(1) In this section “trustee” shall include an executor, an administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and shall also include a joint trustee.

Application of Part II.

Interpretation “Trustee.”

Imp. Act, 51-52 V., c. 59, s. 1 (3).

(2) In an action against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following provision shall apply:—

Application of statutes of limitations to certain actions against trustees.

Imp. Act, 51-52 V., c. 59, s. 3.

(a) All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.

(b) If the action is brought to recover money or other property, and is one to which no existing statute of limitations applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead, the lapse of time as a bar to such action in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action and this section had been pleaded.

Effect of judgment upon rights of beneficiaries.

Operation of section.

(4) This section shall apply only to actions commenced after the 1st day of January, 1892, and shall not deprive any executor or administrator of any right or defence to which he is entitled under any existing statute of limitations. R.S.O. 1927, c. 106, s. 46.

When right accrues in case of express trust. Imp. Act, 3-4 W. IV, c. 27, s. 25.

**47.**—(1) Where any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust* or any person claiming through him to bring an action against the trustee or any person claiming through him to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

Claim of *cestui que trust* against trustee.

(2) Subject to the provisions of section 46 no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitations. R.S.O. 1927, c. 106, s. 47.

### PART III.

#### PERSONAL ACTIONS

Limitation of time for commencing particular actions.

**48.**—(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned,—

- (a) an action for rent, upon an indenture of demise;
- (b) an action upon a bond, or other specialty, except upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1894;

- (c) an action upon a recognizance;

within twenty years after the cause of action arose;

- (d) an action upon an award where the submission is not by specialty;

- (e) an action for an escape;

- (f) an action for money levied on execution;

- (g) an action for trespass to goods or land, simple contract or debt grounded upon any lending or contract without specialty, debt for arrears of rent, detinue, replevin or upon the case other than for slander;

within six years after the cause of action arose;

- (h) an action for a penalty, damages, or a sum of money given by any statute to the Crown or the party aggrieved within two years after the cause of action arose;
- (i) an action upon the case for words within two years after the words spoken;
- (j) an action for assault, battery, wounding or imprisonment within four years after the cause of action arose;
- (k) an action upon a covenant contained in an indenture of mortgage, made on or after the 1st day of July, 1894, within ten years after the cause of action arose;
- (l) an action for a penalty imposed by any statute brought by any informer suing for himself alone, or for the Crown as well as himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose. Actions for penalties.

(2) Nothing in this section shall extend to any action where the time for bringing the action is by any statute specially limited. Where time specially limited. R.S.O. 1927, c. 106, s. 48.

**49.** Every action of account, or for not accounting, or for such accounts as concerns the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of action arose, and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. Actions of account, etc. R.S.O. 1927, c. 106, s. 49.

**50.** Where a person, entitled to bring any action mentioned in either section 48 or 49 is at the time the cause of action accrues an infant, mental defective, mental incompetent or of unsound mind, the period within which such action should be brought shall be reckoned from the date when such person became of full age or of sound mind. In case of disability of plaintiff. R.S.O. 1927, c. 106, s. 50.

**51.** If a person against whom any cause of action mentioned in sections 48 and 49 accrues is at such time out of Non-resident defendants.

Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R.S.O. 1927, c. 106, s. 51.

As to cases where some joint debtors have been within and some without Ontario.

**52.**—(1) Where a person has any such cause of action against joint debtors or joint contractors he shall not be entitled to any time within which to commence such action against any one of them who was within Ontario at the time the cause of action accrued, by reason only that some other of them was, at the time the cause of action accrued, out of Ontario.

Effect of recovery against one joint debtor.

(2) The person having such cause of action shall not be barred from commencing an action against a joint debtor or joint contractor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against a joint debtor or joint contractor who was at such time within Ontario. R.S.O. 1927, c. 106, s. 52.

#### *Acknowledgments or Promises.*

Effect of written acknowledgment or part payment.

**53.** Where an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or where an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or, in the cases mentioned in clause *k* of subsection 1 of section 48, within ten years after such acknowledgment in writing, or part payment, or part satisfaction, or where the person entitled is, at the time of the acknowledgment under disability as aforesaid, or the person making the acknowledgment is, at the time of making the same, out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, or the person has returned, as the case may be. R.S.O. 1927, c. 106, s. 53.

Promise by words only.

**54.**—(1) No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of this Part, any case falling within its provisions respecting actions,—

(a) of account and upon the case;



(b) on simple contract or of debt grounded upon any lending or contract without specialty; and

(c) of debt for arrears of rent;

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in some writing signed by the party chargeable thereby, or by his agent duly authorized to make such acknowledgment or promise.

(2) Nothing in this section shall alter, take away or lessen the effect of any payment of any principal or interest by any person. R.S.O. 1927, c. 106, s. 54.

Effect of  
payment of  
principal or  
interest.  
Imp. Act, 9  
Geo. IV.,  
c. 14, s. 1.

**55.** Where there are two or more joint debtors or joint contractors, or joint obligors, or covenantors, or executors or administrators of any debtor or contractor, no such joint debtor, joint contractor, joint obligor, or covenantor, or executor or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed or by reason of any payment of any principal or interest made by any other or others of them. R.S.O. 1927, c. 106, s. 55.

Case of two  
or more joint  
contractors,  
obligors,  
covenantors,  
or executors.

**56.** In actions commenced against two or more such joint debtors, joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, or executors or administrators is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R.S.O. 1927, c. 106, s. 56.

Judgment  
where plain-  
tiff is barred  
as to one or  
more defend-  
ants, but not  
as to all.

**57.** No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act. R.S.O. 1927, c. 106, s. 57.

Effect of  
endorsement,  
etc., made by  
the payee.

**58.** This Part shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R.S.O. 1927, c. 106, s. 58.

Case of  
set-off.

## CHAPTER 119.

## The Evidence Act.

## INTERPRETATION.

## 1. In this Act,—

“Action.”

- (a) “Action” shall include an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a statute of Ontario or against a by-law or regulation made under the authority of any such statute and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Ontario; R.S.O. 1927, c. 107, s. 1, cl. (b).

“Court.”

- (b) “Court” shall include a judge, arbitrator, umpire, commissioner, magistrate, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence. R.S.O. 1927, c. 107, s. 1, cl. (a).

## APPLICATION OF ACT.

Application  
of Act.

2. This Act shall extend and apply to the evidence offered or taken orally or by interrogatories or affidavits or by the production of documents or things or otherwise by or before a court in an action, and in the case of oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made under section 38, to any matter for which the administering, swearing, affirming or making of such oath, affidavit, affirmation or declaration is required or permitted by any statute of Ontario or under any rule made under the authority thereof or by any order, regulation or commission made or issued by the Lieutenant-Governor in Council under any law authorizing him to require the taking of evidence. R.S.O. 1927, c. 107, s. 2; 1935, c. 66, s. 9 (1).

## COMPETENCY OF WITNESSES.

Witnesses  
not to be  
incapaci-  
tated by  
crime or  
interest.

3. No person offered as a witness in an action shall be excluded by reason of any alleged incapacity from crime or interest from giving evidence. R.S.O. 1927, c. 107, s. 3.

4. Every person offered as a witness shall be admitted to give evidence notwithstanding that he has an interest in the matter in question or in the event of the action, and notwithstanding that he has been previously convicted of a crime or offence. R.S.O. 1927, c. 107, s. 4.

Admissibility notwithstanding interest or crime.

5. The parties to an action, and the persons on whose behalf the same is brought, instituted, opposed or defended shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of themselves or of any of the parties, and the husbands and wives of such parties and persons shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of any of the parties. R.S.O. 1927, c. 107, s. 5.

Evidence of parties.

Evidence of husband and wife.

6.—(1) A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of this Legislature.

Witness not excused from answering questions tending to criminate.

(2) If, with respect to any question, a witness objects to answer upon any of the grounds mentioned in subsection 1, and if, but for this section or any Act of the Parliament of Canada, he would therefore have been excused from answering such question, then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of this Legislature. R.S.O. 1927, c. 107, s. 6.

Answer not to be used in evidence against him.

7. The parties to any proceeding instituted in consequence of adultery and the husbands and wives of such parties shall be competent to give evidence in such proceeding; provided that no witness in any proceeding whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she is guilty of adultery unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery. 1932, c. 53, s. 11.

Evidence in proceedings in consequence of adultery.

8. A husband shall not be compellable to disclose any communication made to him by his wife during the marriage, nor shall a wife be compellable to disclose any communication made to her by her husband during the marriage. R.S.O. 1927, c. 107, s. 8.

Communications made during marriage.

## EXPERT EVIDENCE.

Limit of number of expert witnesses in action, etc.

**9.** Where it is intended by any party to examine as witnesses persons entitled, according to the law or practice, to give opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding, to be applied for before the examination of any of such witnesses. R.S.O. 1927, c. 107, s. 9.

## CORROBORATIVE EVIDENCE.

Breach of promise of marriage.

**10.** The plaintiff in an action for breach of promise of marriage shall not recover unless his or her testimony is corroborated by some other material evidence in support of the promise. R.S.O. 1927, c. 107, s. 10.

Actions by or against representatives of a deceased person.

**11.** In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment, or decision, on his own evidence, in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S.O. 1927, c. 107, s. 11.

In actions by or against persons under disability.

**12.** In an action by or against a mentally incompetent person so found or a patient in a mental hospital, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence, unless such evidence is corroborated by some other material evidence. R.S.O. 1927, c. 107, s. 12.

## OATHS AND AFFIRMATIONS.

Mode of administering oath.

**13.** Where an oath may be lawfully taken it may be administered to any person while such person holds in his hand a copy of the Old or New Testament without requiring him to kiss the same, or, when he objects to being sworn in this manner or declares that the oath so administered is not binding upon his conscience then in such manner and form and with such ceremonies as he may declare to be binding. R.S.O. 1927, c. 107, s. 13.

(NOTE:—See *Commissioners for Taking Affidavits Act, Rev. Stat., c. 121.*)



**14.**—(1) Where any person objects to be sworn from conscientious scruples, or on the ground of his religious belief, or on the ground that the taking of an oath would have no binding effect on his conscience, such person may in lieu of taking an oath make an affirmation and declaration which shall be of the same force and effect as if such person had taken an oath in the usual form.

Affirmation  
in lieu  
of oath.

(2) Where the evidence is in the form of an affidavit or written deposition the person before whom the same is taken shall certify that the deponent satisfied him that he was a person entitled to affirm. R.S.O. 1927, c. 107, s. 14.

Certifying  
affirmation.

#### ATTENDANCE OF WITNESSES.

**15.** A witness served in due time with a subpoena issued out of any court in Ontario, and paid his proper witness fees and conduct money, who makes default in obeying such subpoena, without any lawful and reasonable impediment, shall, in addition to any penalty he may incur as for a contempt of court, be liable to an action on the part of the person by whom, or on whose behalf, he has been subpoenaed for any damage which such person may sustain or be put to by reason of such default. R.S.O. 1927, c. 107, s. 15.

Witness  
disobeying  
subpoena  
liable to  
action.

Imp. 5 Eliz.,  
c. 9, s. 6.

#### ISSUE OF SUBPOENAS INTO ANY PART OF ONTARIO OR QUEBEC.

[Sections 4-11 and 13 of C.S.C., c. 79, which were taken from 18 Vict., c. 9, ss. 1-4, 6, 7, are not consolidated in the Revised Statutes of Canada, and are as follows:]

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpœna ad testificandum* or of *subpœna duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada.

Courts may  
issue sub-  
poenas to  
any part of  
Canada.

5. The service of any such writ or process in any part of Canada, shall be as valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

Service  
thereof in  
any part of  
Canada to  
be good.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

When not to  
be issued.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order.

Writs to be  
specially  
noted.

Consequences of disobedience. 8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpœna or other similar process issued out of such last mentioned Court.

If expenses paid or tendered. 9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpœna or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Court of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpœna, or other similar process was served upon him.

How service proved. 10. The service of such writs of subpœna or other similar process, in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same.

Costs of attendance provided for. 11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders.

Power to issue commissions to examine witnesses, preserved. 13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court.

#### EXAMINATION OF WITNESSES.

Proof of contradictory written statements. 16. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him; but if it is intended to contradict him by the writing, his attention shall, before such contradictory proof is given, be called to those parts of the writing which are to be used for the purpose of so contradicting him, and the judge or other person presiding at any time during the trial or proceeding may require the production of the writing for his inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he may think fit. R.S.O. 1927, c. 107, s. 16.

**17.** If a witness upon cross-examination as to a former statement made by him relative to the matter in question and inconsistent with his present testimony does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. R.S.O. 1927, c. 107, s. 17.

Proof of contradictory oral statements.

**18.—(1)** A witness may be asked whether he has been convicted of any crime, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved, and a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Proof of previous conviction of a witness.

Certificate of conviction.

**(2)** For such certificate a fee of \$1 and no more may be demanded or taken. R.S.O. 1927, c. 107, s. 18.

Fee for.

**19.** A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or if the witness in the opinion of the judge or other person presiding proves adverse such party may by leave of the judge or other person presiding prove that the witness made at some other time a statement inconsistent with his present testimony, but before such last mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make such statement. R.S.O. 1927, c. 107, s. 19.

How far a party may discredit his own witness.

#### STATUTES AND PUBLIC DOCUMENTS.

*Statutes, Proclamations, Orders-in-Council, Letters Patent, etc.*

**20.** Letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's Dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the

Evidence of letters patent.

Great Seal under which the same may have issued, and such exemplification shall have the like force and effect for all purposes as the letters patent thereby exemplified, as well against His Majesty as against all other persons whomsoever. R.S.O.

3 and 4 Edw.  
VI., c. 4 and  
13 Eliz., c. 6.

1927, c. 107, s. 20.

Copies of  
Canadian  
and  
provincial  
statutes as  
evidence.

**21.** Copies of statutes, official gazettes, ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be printed by or under the authority of the Parliament of Great Britain and Ireland, or of the Imperial Government or by or under the authority of the Government or of any legislative body of any dominion, commonwealth, state, province, colony, territory or possession within the King's dominions, shall be admitted in evidence to prove the contents thereof. R.S.O. 1927, c. 107, s. 21.

Proclama-  
tions, Orders-  
in-Council,  
etc., of  
Government  
of Canada  
and of  
provincial  
govern-  
ments, how  
proved.

**22.** *Prima facie* evidence of a proclamation, order, regulation or appointment to office made or issued,—

- (a) by the Governor-General or the Governor-General in Council, or other Chief Executive Officer or Administrator of the Government of Canada; or
- (b) by or under the authority of any minister or head of any department of the Government of Canada or of a provincial or territorial government in Canada; or
- (c) by a Lieutenant-Governor or Lieutenant-Governor in Council or other Chief Executive Officer or Administrator of Ontario or of any other province or territory in Canada,

may be given by the production of,—

- (i) a copy of the *Canada Gazette* or of the official gazette for any province or territory purporting to contain a notice of such proclamation, order, regulation or appointment; or
- (ii) a copy of such proclamation, order, regulation or appointment purporting to be printed by the King's Printer or by the government printer for the province or territory; or
- (iii) a copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such minister or head



of a department or by the clerk, or assistant or acting clerk of the Executive Council or by the head of any department of the Government of Canada or of a provincial or territorial government or by his deputy or acting deputy. R.S.O. 1927, c. 107, s. 22.

**23.** An order in writing purporting to be signed by the Secretary of State of Canada, and to be written by command of the Governor-General, shall be received in evidence as the order of the Governor-General, and an order in writing purporting to be signed by the Provincial Secretary and to be written by command of the Lieutenant-Governor shall be received in evidence as the order of the Lieutenant-Governor. R.S.O. 1927, c. 107, s. 23.

Orders  
signed by  
Secretary of  
State or  
Provincial  
Secretary.

### *Official Documents.*

**24.** Copies of proclamations and of official and other documents, notices and advertisements printed in the *Canada Gazette* or in the *Ontario Gazette*, or in the official gazette of any province or territory in Canada shall be *prima facie* evidence of the originals, and of the contents thereof. R.S.O. 1927, c. 107, s. 24.

Notices in  
*Gazette*.

**25.** Where the original record could be received in evidence, a copy of any official or public document in Ontario, purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of any entry in any register or other book of any corporation, created by charter or statute in Ontario, purporting to be certified under the seal of the corporation, and the hand of the presiding officer or secretary thereof, shall be receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R.S.O. 1927, c. 107, s. 25.

How public  
or official  
documents  
proved.

By-laws,  
etc., of  
corporations.

**26.** Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a department of the public service of Ontario, if the deputy head or other officer of the department has the document in his personal possession, and is called as a witness, he shall be entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the department, to object to produce the document on the ground that it is privileged, and such objection may be taken by him in the same manner, and shall have the same effect, as if such

Privilege in  
case of  
official  
documents.

member of the Executive Council or head of the department were personally present and made the objection. R.S.O. 1927, c. 107, s. 26.

Entries in  
depart-  
mental books  
to be *prima*  
*facie* evidence.

**27** A copy of an entry in any book of account kept in any department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. R.S.O. 1927, c. 107, s. 27.

Copies of  
public books  
or docu-  
ments  
admissible in  
evidence.

**28.**—(1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, a copy thereof or extract therefrom shall be admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original has been entrusted.

Copies to be  
delivered if  
required.

(2) Such officer shall furnish the certified copy or extract to any person applying for the same at a reasonable time, upon his paying therefor a sum not exceeding ten cents for every folio of one hundred words. R.S.O. 1927, c. 107, s. 28.

Interpreta-  
tion.  
"Bank."  
R.S.O., c. 12.

**29.**—(1) In this section "bank" shall mean and include a bank to which the *Bank Act*, Revised Statutes of Canada, 1927, chapter 12, applies and every branch, agency or office of a bank and an office opened under *The Agricultural Development Finance Act* in any part of Ontario.

Rev. Stat.,  
c. 77.

Copies of  
entries in  
books as  
*prima facie*  
evidence.

(2) Subject to the provisions of this section a copy of an entry in a book or record kept in a bank shall in any action to which the bank is not a party be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded.

Proof  
required as  
to entry in  
ordinary  
course of  
business.

(3) A copy of an entry in such book or record shall not be received in evidence under this section unless it be first proved that the book or record was at the time of making the entry one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book of record is in the custody or control of the bank, or its successor, and that such copy is a true copy thereof, and such proof may be given by the manager

or accountant, or a former manager of the bank or its successor and may be given orally or by affidavit.

(4) A bank or officer of a bank shall not in an action to which the bank is not a party be compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause.

Production of books to be required only under order.

(5) On the application of any party to an action the court or judge may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purposes of such proceeding, but a person whose account is to be inspected shall be served with notice of the application at least two clear days before the hearing thereof, and if it is shown to the satisfaction of the court or judge that such person cannot be notified personally such notice may be given by addressing the same to the bank.

Inspection of account.

(6) The costs of any application to a court or judge under or for the purposes of this section, and the costs of anything done or to be done under an order of a court or judge made under or for the purposes of this section, shall be in the discretion of the court or judge who may order the same or any part thereof to be paid to any party by the bank, where the same have been occasioned by any default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank was a party to the proceeding. 1929, c. 33, s. 2.

Costs.

Enforcement of order against bank.

(NOTE—*As to documents in Department of Lands and Forests see The Public Lands Act. Rev. Stat. c. 33, s. 31.*)

### *Signatures of Judges, etc.*

**30.**—(1) All courts, judges, justices, masters, clerks of courts, commissioners and other officers acting judicially, shall take judicial notice of the signature of any of the judges of any court in Canada, in Ontario and in every other province and territory in Canada, where such signature is appended or attached to any decree, order, certificate, affidavit, or judicial or official document.

Judicial notice to be taken of signatures of judges, etc.

(2) The members of the Board of Railway Commissioners of Canada and of the Ontario Municipal Board, the judge of the mining court and a referee appointed under *The Municipal Drainage Act* shall be deemed judges for the purposes of this section. R.S.O. 1927, c. 107, s. 29.

Who to be deemed "judges."

Rev. Stat., c. 278.

Proof of  
handwriting,  
when not  
required.

**31.** No proof shall be required of the handwriting or official position of any person certifying to the truth of any copy of or extract from any proclamation, order, regulation or appointment, or to any matter or thing as to which he is by law authorized or required to certify. R.S.O. 1927, c. 107, s. 30.

*Foreign Judgments.*

Foreign  
judgments,  
etc., how  
proved.

**32.** A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any court of record in England or Ireland or in any of the superior courts of law, equity or bankruptcy in Scotland, or in any court of record in Canada, or in any of the provinces or territories in Canada, or in any British colony or possession, or in any court of record of the United States, or of any state of the United States of America, may be proved by an exemplification of the same under the seal of the court without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment, decree, or other judicial proceeding of the Supreme Court in Ontario may be proved by an exemplification thereof. R.S.O. 1927, c. 107, s. 31.

*Notarial Documents.*

Copies of  
notarial acts  
in Quebec  
admissible.

**33.** A copy of a notarial act or instrument in writing made in Quebec, before a notary and filed, enrolled or enregistered by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, shall be receivable in evidence in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. R.S.O. 1927, c. 107, s. 32.

How  
impeached.

**34.** The proof of such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. R.S.O. 1927, c. 107, s. 33.

*Protests of Bills and Notes.*

Effect of  
protest as  
evidence.

**35.** A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made shall be received as *prima facie* evidence of the allegations and facts therein stated. R.S.O. 1927, c. 107, s. 34.



**36.** Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his own handwriting or to be signed by him at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him shall be *prima facie* evidence of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum. R.S.O. 1927, c. 107, s. 35.

Effect of certain certificates of notaries.

*Sheriff's Conveyance on Division Court Judgment.*

**37.** In proving a title under a sheriff's conveyance based upon an execution issued from a division court it shall be sufficient to prove the judgment recovered in the division court without proof of any prior proceedings. R.S.O. 1927, c. 107, s. 36.

Proving titles under division court executions.

MISCELLANEOUS PROVISIONS.

*Affidavits, etc., made out of Ontario.*

**38.** Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of Ontario,—

Functionaries in other countries for taking affidavits.

- (a) in England or Northern Ireland before a commissioner authorized to administer oaths in the Supreme Court of Judicature;
- (b) in England or Northern Ireland before a judge of the Supreme Court of Judicature;
- (c) in Scotland before a judge of the Court of Session or the Justiciary Court of Scotland;
- (d) in England, Scotland or Northern Ireland before a judge of a county court within his county;
- (e) in the Irish Free State before a commissioner authorized to administer oaths in the courts of justice of the Irish Free State, or before a judge of the Supreme Court of Justice of the Irish Free State, or before a judge of the High Court of Justice of the Irish Free State, or before a judge of the Circuit Court of Justice of the Irish Free State within his circuit;
- (f) in Great Britain or Northern Ireland or in the Irish Free State, or in any dominion or colony of His Majesty, or in any foreign country before the mayor

Taking affidavits out of Ontario for use in Ontario courts.

or chief magistrate of any city, borough or town corporate, certified under the common seal of such city, borough or town corporate;

- (g) in any colony belonging to the Crown of Great Britain or any dependency thereof, or in any foreign country, before a judge of any court of record of supreme jurisdiction;
- (h) in the British possessions in India, before any magistrate or collector certified to have been such under the hand of the governor of such possession;
- (i) in Quebec, before a judge or prothonotary of the Superior Court or clerk of the Circuit Court;
- (j) in any foreign place, before any consul, vice-consul, or consular agent of His Majesty exercising his functions;
- (k) before a notary public and certified under his hand and official seal;
- (l) before a commissioner authorized by the laws of Ontario to take such affidavits;
- (m) before a commissioner authorized to take affidavits in Ontario or a notary public of Ontario; or
- (n) in any province of Canada before a commissioner authorized to administer oaths in the courts of such province or by a notary public or a justice of the peace having authority or jurisdiction in the place where the oath is administered,

shall be as valid and effectual and shall be of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits therein, or other competent authority of the like nature. R.S.O. 1927, c. 107, s. 37; 1930, c. 29, s. 2; 1935, c. 66, s. 9 (2).

Proof of  
signature  
and seal  
dispensed  
with.

**39.** Any document purporting to have affixed, impressed or subscribed thereon or thereto the signature of such judge or commissioner, or the signature and official seal of such notary public, or prothonotary, or the seal of the corporation and the signature of such mayor or chief magistrate or governor as aforesaid, or the seal and signature of such consul, vice-consul or consular agent in testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, or for any other

purpose authorized by this Act, shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature of the person whose signature or seal and signature the same purport to be, or of the official character of such person. R.S.O. 1927, c. 107, s. 38.

*Formal Defects in Affidavits.*

40. No informality in the heading, or other formal requirements to any affidavit, declaration or affirmation, made or taken before a commissioner or other person authorized to take affidavits under *The Commissioners for taking Affidavits Act*, or under this Act, shall be any objection to its reception in evidence, if the court or judge before whom it is tendered thinks proper to receive it. R.S.O. 1927, c. 107, s. 39.

Formal defects, when not to vitiate.

Rev. Stat., c. 121.

*Depositions.*

41. Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take the same, copies of the examination or deposition certified under the hand of the judge, officer or other person taking the same, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R.S.O. 1927, c. 107, s. 40.

Admissibility of copies of depositions.

*Proof of Wills.*

42. In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing such devise or disposition, or a copy thereof, under the seal of the surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada, shall be *prima facie* evidence of the will, and of its validity and contents. R.S.O. 1927, c. 107, s. 41.

Effect of probate, etc., as evidence of will, etc.

43. Where a person dies in any of His Majesty's possessions out of Ontario having made a will sufficient to pass real estate in Ontario, purporting to devise, charge or affect real estate in Ontario, the party desiring to establish any such disposition, after giving one month's notice to the opposite party to the proceeding of his intention so to do, may produce and file the probate of the will or letters of administration with the will annexed or a certified copy thereof under the seal of the court which granted the same with a certi-

Proof in the case of will of real estate filed in courts in other British possessions.

Certificate.

cate of the judge, registrar, or clerk of such court that the original will is filed and remains in the court and purports to have been executed before two witnesses, and such probate or letters of administration or certified copy with such certificate shall, unless the court otherwise orders, be *prima facie* evidence of the will and of its validity and contents. R.S.O. 1927, c. 107, s. 42.

Effect of  
certificate.

**44.** The production of the certificate, in section 43, mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the judge, registrar or clerk, without proof of his appointment, authority or signature. R.S.O. 1927, c. 107, s. 43.

What to be  
deemed suffi-  
cient proof  
of death.

**45.** The production of a certificate in writing signed by the Adjutant General, Acting Adjutant General, or Director of the Record Office at Militia Headquarters, Ottawa, or by any officer of His Majesty's naval, land or air forces authorized by regulation or otherwise to so sign, stating that the person named in such certificate was a member of the Canadian Expeditionary Force or of any other of His Majesty's naval, land or air forces and that he has been officially reported as having died, been killed in action, died of wounds or presumed to be dead, shall be sufficient proof of the death of such person for any purpose to which the authority of the Legislature of Ontario extends. R.S.O. 1927, c. 107, s. 44.

#### *Copies of Registered Instruments.*

Meaning of  
"instru-  
ment."

Rev. Stat.,  
c. 170.

**46.** The word "instrument" in sections 47 and 48 shall have the meaning assigned to that word in section 1 of *The Registry Act*. R.S.O. 1927, c. 107, s. 45.

Registered  
instrument  
as evidence.

**47.** A copy of an instrument or memorial certified under the hand and seal of office of the registrar, master of titles, or local master of titles, in whose office the same is deposited, filed, kept or registered, to be a true copy shall be *prima facie* evidence of the original, except in the cases provided for in section 48. R.S.O. 1927, c. 107, s. 46.

(NOTE—As to effect of production of an original duplicate the registration of which is certified see *The Registry Act*, Rev. Stat. c. 170, s. 49.)

When cer-  
tified copies  
of registered  
instruments  
may be used.

**48.** Where it would be necessary to produce and prove an instrument or memorial which has been so deposited, filed, kept or registered in order to establish such instrument or memorial and the contents thereof, the party intending to prove the same may give notice to the opposite party ten



days at least before the trial, or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the instrument or memorial a copy thereof certified by the registrar, master of titles, or local master of titles, under his hand and seal of office, and in every such case the copy so certified shall be sufficient evidence of the instrument or memorial and of its validity and contents, unless the party receiving the notice, within four days after such receipt, gives notice that he disputes its validity, in which case the costs of producing and proving it may be ordered to be paid by any or either of the parties as may be deemed just. R.S.O. 1927, c. 107, s. 47. Exception.

49.—(1) Where a public officer produces upon a subpoena an original document, it shall not be deposited in court, unless otherwise ordered, but if the document or a copy is needed for subsequent reference or use, a copy thereof or of so much thereof as may be deemed necessary, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original, and the officer shall be entitled to receive in addition to his ordinary fees, the fees for any certified copy, to be paid to him before it is delivered or filed. Filing copies of official documents.

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer, and the exhibit shall be retained in court and filed. R.S.O. 1927, c. 107, s. 48. When original to be retained.

### *Copies of other written Instruments.*

50.—(1) A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy of the documents, and in the notice shall name some convenient time and place for the inspection thereof. Proof of certain documents.

(2) Such copy may then be inspected by the opposite party, and shall without further proof be sufficient evidence of the contents of the original document, and be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, Inspection.

Costs.

and to require proof of the original, and the costs attending any production or proof of the original document shall be in the discretion of the court. R.S.O. 1927, c. 107, s. 49.

### *Miscellaneous Provisions.*

Where no attestation required.

**51.** It shall not be necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. R.S.O. 1927, c. 107, s. 50.

Comparison of disputed writing with genuine.

**52.** Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by a witness, and such writings and the evidence of witnesses respecting the same, may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.O. 1927, c. 107, s. 51.

When instruments offered in evidence may be impounded.

**53.** Where a document is received in evidence the court admitting the same may direct that it be impounded and kept in such custody for such period and subject to such conditions as may seem proper, or until the further order of the court or of the Supreme Court or of a judge thereof or of a county or district court, as the case may be. R.S.O. 1927, c. 107, s. 52.

Evidence dispensed with under Rev. Stat., c. 168.

**54.** It shall not be necessary in any action to produce any evidence which, by section 1 of *The Vendors and Purchasers Act*, is dispensed with as between vendor and purchaser, and the evidence declared to be sufficient as between vendor and purchaser shall be *prima facie* sufficient for the purposes of the action. R.S.O. 1927, c. 107, s. 53.

### *Evidence for Foreign Tribunals.*

Examination of witnesses in relation to matter pending before a foreign tribunal.

**55.—(1)** Where it is made to appear to the Supreme Court or a judge thereof, or to a judge of a county or district court, that any court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining of the testimony, in or in relation to any action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process, and may, by the same or by a subsequent order, command the attendance of any person named therein for the purpose of being examined, or the production of any

writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination, and all other matters connected therewith as may seem proper, and the order may be enforced, and any disobedience thereto punished, in like manner as in case of an order made by the same court or judge in an action pending in such court or before such judge.

(2) A person whose attendance is so ordered shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

Payment of expenses of witness.

(3) A person examined under such commission, order or other process, shall have the like right to object to answer questions tending to criminate himself, and to refuse to answer any questions which, in an action pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made, the witness would be entitled to object or to refuse to answer, and no person shall be compelled to produce at the examination, any writing, document or thing which he would not be compellable to produce at the trial of such an action.

Right of refusal to answer questions and to produce documents.

(4) Where the commission, order or other process or the instructions of the court accompanying the same, direct that the person to be examined shall be sworn or shall affirm, the person so appointed shall have authority to administer the oath to him or take his affirmation. R.S.O. 1927, c. 107, s. 54.

Administration of oath.

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## CHAPTER 120.

## The Absentee Act.

"Absentee"  
Cf.  
Civil Code  
L. C. s. 86.

**1.** An absentee within the meaning of this Act shall mean one who, having had his usual place of residence or domicile in Ontario, has disappeared, whose whereabouts are unknown and as to whom there is no knowledge as to whether he is alive or dead. R.S.O. 1927, c. 108, s. 1.

Declaration  
by Court.

**2.**—(1) The Supreme Court may by order declare a person to be an absentee if it is shown that due and satisfactory inquiry has been made, or may direct such further inquiry to be made and proceedings to be taken as it may deem expedient before making any order.

Application,  
who may  
make.

(2) The application for the order may be made by the Attorney-General for Ontario, or by any one or more of the next of kin of the alleged absentee, by his or her wife or husband, creditor or other person.

Appeal.

(3) Any person aggrieved or affected by the order shall have the right to appeal therefrom. R.S.O. 1927, c. 108, s. 2.

Order  
declaring  
person no  
longer  
absentee.

**3.** Upon application at any time the Court, if satisfied that such person has ceased to be an absentee, may make an order so declaring and superseding, vacating and setting aside the order declaring the person an absentee for all purposes except as to acts or things done in respect of the estate of the absentee while such order was in force. R.S.O. 1927, c. 108, s. 3.

Adminis-  
tration of  
estate.

**4.** The Court may make an order for the custody, due care and management of the property of an absentee and a committee may be appointed for that purpose. R.S.O. 1927, c. 108, s. 4.

Who may be  
appointed  
committee.

**5.** A trust company with or without one or more persons may be appointed such committee. R.S.O. 1927, c. 108, s. 5.

Powers and  
duties of  
Court and  
committee.

**6.** Where a committee of the estate of an absentee has been appointed, the powers and duties of the Court and com-



mittee shall be the same *mutatis mutandis* as the powers and duties of a court and of a committee of the estate of a mentally incompetent person, as provided by *The Mental Incompetency Act*. R.S.O. 1927, c. 108, s. 6. Rev. Stat.,  
c. 110.

7. The committee shall subject to the direction of the Court have authority to expend moneys out of the estate of an absentee for the purpose of endeavouring to trace the said absentee and in endeavouring to ascertain whether he is alive or dead. R.S.O. 1927, c. 108, s. 7. Powers of  
committee  
to expend  
money out  
of estate.

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## CHAPTER 121.

## The Commissioners for taking Affidavits Act.

Interpreta-  
tion.  
"County."

**1.** In this Act, "County" shall include a provisional county and a provisional judicial district. R.S.O. 1927, c. 109, s. 1.

## COMMISSIONERS WITHIN ONTARIO.

Clerk of  
municipality  
to be *ex  
officio* com-  
missioner.

**2.**—(1) The clerk of every county, district and union of counties shall be *ex officio* a commissioner for taking affidavits in and for such county, district or union of counties and the clerk of every other municipality shall be *ex officio* a commissioner for taking affidavits in and for the county, district or union of counties in which such municipality is located.

Member of  
Legislative  
Assembly to  
be *ex officio*  
commis-  
sioner.

(2) Every member of the Legislative Assembly shall be *ex officio* a commissioner for taxing affidavits within Ontario. 1935, c. 9, s. 2.

Solicitors to  
be *ex officio*  
commis-  
sioners.

(3) Every solicitor of the Supreme Court shall be *ex officio* a commissioner for taking affidavits in and for every county in Ontario. R.S.O. 1927, c. 109, s. 2 (3).

(NOTE—*See also The Interpretation Act, Rev. Stat. c. 1, s. 23.*)

County and  
district  
courts.

**3.** The judges and the clerks of the county and district courts may take all affidavits required to be taken in their respective courts. R.S.O. 1927, c. 109, s. 3.

Commis-  
sioner to be  
an officer of  
the court.

**4.** Every commissioner for taking affidavits shall be deemed to be an officer of the Supreme Court. R.S.O. 1927, c. 109, s. 4.

Power to  
take oaths.

**5.** The Lieutenant-Governor in Council may confer upon such officers and employees of the Income Tax Division, Department of National Revenue (Dominion), or of the Agricultural Development Board or the Department of Public Welfare, as he may designate, full power to administer oaths and take affidavits in connection with the perform-

ance of their official duties, but limited as the Lieutenant-Governor in Council may determine. 1933, c. 59, s. 13; 1935, c. 9, s. 3.

#### COMMISSIONERS OUT OF ONTARIO.

**6.**—(1) The Lieutenant-Governor may, by commission, empower any person of the full age of twenty-one years or over to administer oaths and take affidavits within or without Ontario in or concerning actions, causes or matters depending in or in anywise concerning any proceeding to be had in any court in Ontario. 1935, c. 9, s. 4 (1). Commissioners, appointment of.

(2) The appointment of every such person appointed within Ontario shall be for a period of three years provided that any such appointment may from time to time be renewed for a period of three years at the pleasure of the Lieutenant-Governor. 1935, c. 9, s. 4 (2). Period of appointment.

(3) A commissioner so appointed shall be styled "A commissioner for taking affidavits in and for the courts in Ontario." R.S.O. 1927, c. 109, s. 5 (2). Style of commissioners.

**7.** The judges of the Supreme Court or any two of them may issue under the seal of the Court commissions empowering such and so many persons as they think fit and necessary to administer oaths and to take affidavits in any province or territory in Canada, in or concerning actions, causes or matters depending in or in anywise concerning any proceeding to be had in any court in Ontario. R.S.O. 1927, c. 109, s. 6. Appointment by judges of commissioners in any Province.

#### AUTHORITY OF COMMISSIONERS, ETC.

**8.** Every commissioner may take any affidavit in anywise concerning any proceeding to be had in any court in Ontario, or before a judge of any such court, and in or concerning any application or matter made or pending before any judge of any court in Ontario which by any statute such judge is authorized to hear and determine, or in which he is authorized to make an order, although the application or matter be not made or depending in any court. R.S.O. 1927, c. 109, s. 7. Extent of commissioner's authority.

**9.** Every commissioner shall have power to take declarations in all cases in which declarations may be taken, or may be required under any Act in force in Ontario. R.S.O. 1927, c. 109, s. 8. Commissioners may take statutory declarations.

#### REVOCATION OF COMMISSIONS.

**10.** The Lieutenant-Governor may revoke the commission of any commissioner appointed by him or by the judges of the Supreme Court or any court formerly authorized to Revocation of commission.

issue commissions, and such revocation shall operate as a revocation for all purposes. 1935, c. 9, s. 5.

(NOTE—See *The Registry Act*, *Rev. Stat. c. 170*, and *The Notaries Act*, *Rev. Stat. c. 224*.)

#### ADMINISTRATION OF THE OATH.

Duty of commissioner, etc., in administration of oath.

**11.**—(1) Every oath and statutory declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before he signs the jurat or declaration. R.S.O. 1927, c. 109, s. 10.

Indication of expiry of commission.

(2) Every commissioner appointed within Ontario under the provisions of section 6 shall indicate in writing under his signature the date upon which his commission expires. 1935, c. 9, s. 6.

Penalty for signing jurat without administration of oath.

**12.** Every commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration who signs a jurat or declaration without the due administration of the oath or declaration shall incur a penalty of not less than \$25 nor more than \$500 for each offence. R.S.O. 1927, c. 109, s. 11.

Making use of affidavit improperly sworn.

**13.** Every one who in any action or proceeding or upon any application or other proceeding out of court, or for the purpose of making or maintaining any claim, files, registers or uses or in any other manner makes use of any oath, affidavit or statutory declaration knowing that the same has not been taken, sworn to or made in conformity with the provisions of section 11, shall incur a penalty of not less than \$25 nor more than \$500 for each offence. R.S.O. 1927, c. 109, s. 12.

Forfeiture of commission or appointment.

**14.** Upon the conviction of a commissioner for taking affidavits, a notary public or justice of the peace for an offence against this Act his commission or appointment may be cancelled or revoked by the constituting authority. R.S.O. 1927, c. 109, s. 13.

Regulations.

**15.** The Lieutenant-Governor may make regulations respecting the fees payable to the Crown and the fees receivable by commissioners under this Act. 1935, c. 9, s. 7.



## CHAPTER 122.

## The Costs of Distress Act.

**1.**—(1) No person making distress for rent or for a penalty where the sum demanded and due, in respect of the rent or penalty, does not exceed \$80, and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the same into effect, shall levy, take or receive any costs in respect of the distress other than such as are set forth in Schedule 1.

Tariff of costs where sum demanded does not exceed \$80.

(2) Where the sum demanded and due exceeds \$80 no charges shall be made for or in respect of costs or expenses, except such as are set forth in Schedule 2. R.S.O. 1927, c. 110, s. 1.

Where sum demanded exceeds \$80.

**2.** No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and when sold no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1927, c. 110, s. 2.

Costs in respect of seizure of exempted goods.

**3.** No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of any instalment of principal or interest, secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal or interest, shall levy, take or receive any greater or other fees or costs than those set forth in Schedule 3. R.S.O. 1927, c. 110, s. 3; 1929, c. 34, s. 2.

Tariff of costs under chattel mortgage.

**4.** No person shall make any charge for anything mentioned in such Schedules unless it has been actually done. R.S.O. 1927, c. 110, s. 4; 1929, c. 34, s. 3.

No charge for anything not done.

**5.** No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of any instalment of principal or interest secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal

Right of action not affected.

or interest, shall be barred from any action or remedy which he would have had if this Act had not been passed. 1931, c. 28, s. 3.

Furnishing statement of demand and costs.

6.—(1) A person who makes a distress shall give a statement in writing of the demand, and of all the costs and expenses of the distress, signed by him, to the person on whose goods the distress is made, and a person who makes a seizure under a chattel mortgage or for default in payment of any instalment of principal or interest secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal or interest, shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings. R.S.O. 1927, c. 110, s. 15 (1); 1931, c. 28, s. 4 (1).

Taxation of costs of distress.

(2) The person whose goods are distrained or seized, or the person authorizing the distress or seizure, or any other person interested, upon giving two days' notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the division court within whose division the same was made.

Furnishing bill of costs to clerk for taxation.

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice, or at such other time as the clerk may direct, and in default of his so doing he shall not be entitled to any costs or expenses.

Duty of clerk on taxation.

(4) The clerk upon the taxation shall, amongst other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath, touching the same, and the person requiring the taxation shall pay the clerk a fee of twenty-five cents therefor. R.S.O. 1927, c. 110, s. 15 (2-4).

Appeal.

(5) An appeal may be made from such taxation to a judge of the county or district court. 1931, c. 28, s. 4 (2).

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## SCHEDULE 1.

(Section 1 (1).)

COSTS ON DISTRESS WHERE SUM DEMANDED AND DUE DOES NOT  
EXCEED \$80.

- |  |        |
|--|--------|
| 1. Levying distress.....   | \$1.00 |
| 2. One man keeping possession, per diem.....   | .75    |
| 3. Appraisement, whether by one appraiser or more— <i>two cents in the dollar on the value of the goods.</i>                                     |        |
| 4. If any printed advertisement, not to exceed in all.....   | 1.00   |
| 5. Catalogues, sale and commission, and delivery of goods— <i>five cents in the dollar on the net proceeds of the sale.</i>                      |        |
| 6. Where the amount due is satisfied in whole or in part after seizure and before sale— <i>three cents in the dollar on the amount realized.</i> |        |

R.S.O. 1927, c. 110, Sched. 1.

## SCHEDULE 2.

(Section 1 (2).)

## COSTS ON DISTRESS, WHERE SUM DEMANDED AND DUE EXCEEDS \$80.

- |  |        |
|--|--------|
| 1. Levying distress.....   | \$1.00 |
| 2. One man keeping possession, per diem.....   | 1.00   |
| 3. Appraisement whether by one appraiser or more, <i>two cents in the dollar on the value of the goods.</i>  |        |
| 4. Advertisement when reasonably published in a newspaper, the actual outlay not exceeding.....  | 5.00   |
| 5. If any printed advertisement otherwise than in a newspaper, the actual outlay not exceeding.....  | 3.00   |
| 6. The actual expenses reasonably incurred in removing the goods distrained or part thereof when such removal is necessary.  |        |
| 7. Catalogues, sale and commission and delivery of goods, <i>five cents in the dollar on the net proceeds of the sale, up to \$100, and where the proceeds of the sale exceed \$100 in addition thereto, two and one-half per centum on the excess over \$100.</i> |        |
| 8. Where the amount due is satisfied in whole or in part after seizure and before sale, <i>three cents in the dollar on the amount so realized.</i>  |        |

R.S.O. 1927, c. 110, Sched. 2.

## SCHEDULE 3.

(Section 3.)

## COSTS ON SEIZURE UNDER CHATTEL MORTGAGES.

1. Making seizure where amount does not exceed \$80.....	\$1.00
2. Making seizure where amount exceeds \$80.....	1.50
3. One man keeping possession, per diem.....	1.00
4. Where the amount exceeds \$80, advertisement when reasonably published in a newspaper, the actual outlay not exceeding.....	5.00
5. If any printed advertisement otherwise than in a newspaper, where the amount does not exceed \$80, the actual outlay not exceeding.....	1.50
and where the amount exceeds \$80 the actual outlay not exceeding.....	3.00
6. Catalogues, sale and commission and delivery of goods, <i>five cents in the dollar on the net proceeds of the sale, up to \$100, and where the proceeds of sale exceed \$100, in addition thereto two and one-half per centum on the excess over \$100.</i>	
7. Where amount is paid before sale, <i>a commission of two cents in the dollar, and the amount actually disbursed in cartage not to exceed</i> .....	2.00

R.S.O. 1927, c. 110, Sched. 3.



## CHAPTER 123.

### The Judges' Orders Enforcement Act.

**1.**—(1) Subject to the provisions of the statute under which he acts where jurisdiction is given to a judge as *per-sona designata* his orders shall be entered in the same way as orders made by him in matters pending in the court of which he is a judge and may be enforced in the same way as judgments of the court. Enforcing orders of judge made under special statutory authority.

(2) All affidavits used upon any such application shall be filed with the clerk of the court as upon ordinary applications in a matter pending in the court. Filing of affidavits.

(3) The same fee shall be paid for such filings and upon any order made as in ordinary proceedings in the court. Fees.  
R.S.O. 1927, c. 111, s. 1

**2.** Subject to the provisions of the statute under which he acts upon any such application the judge shall have the same jurisdiction as to costs and otherwise as in matters in court under his ordinary jurisdiction R.S.O. 1927, c. 111, s. 2. Jurisdiction as to costs, etc.

**3.**—(1) An appeal shall lie from any such order to the Court of Appeal,—

(a) when the right of appeal is given by the statute under which the judge acts; or,

(b) when no such right of appeal is given, then by leave of the judge making the order or by leave of a judge of the Supreme Court.

(2) The decision of the Court of Appeal shall be final.  
R.S.O. 1927, c. 111, s. 3.

## CHAPTER 124.

## The Reciprocal Enforcement of Judgments Act.

Interpreta-  
tion.

1.—(1) In this Act, unless the context otherwise requires,—

“Judgment.”

(a) “Judgment” shall mean any judgment or order given or made by a court in any civil proceedings whether before or after the passing of this Act, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the province or territory where it was made, become enforceable in the same manner as a judgment given by a court therein;

“Judgment  
creditor.”

(b) “Judgment creditor” shall mean the person by whom the judgment was obtained, and includes the executors, administrators, successors and assigns of that person;

“Judgment  
debtor.”

(c) “Judgment debtor” shall mean the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given;

“Original  
court.”

(d) “Original court” in relation to any judgment shall mean the court by which the judgment was given;

“Registering  
court.”

(e) “Registering court” in relation to any judgment shall mean the court in which the judgment is registered under this Act.

Powers of  
court, how  
exercised.

(2) Subject to rules of court, any of the powers conferred by this Act on any court may be exercised by a judge of the court. 1929, c. 29, s. 2.

Registration  
of judgment.

2.—(1) Where a judgment of any superior, county or district court has been obtained outside this province in any other province or territory of the Dominion of Canada to which this Act applies, the judgment creditor may apply to a judge of the Supreme Court at any time within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may,

subject to the provisions of this Act, order the judgment to be registered accordingly.

(2) Reasonable notice of the application shall be given to the judgment debtor in all cases in which he was not personally served with process in the original action and did not appear or defend or otherwise submit to the jurisdiction of the original court, but in all other cases the order may be made *ex parte*. Notice of application to register.

(3) The judgment may be registered by filing with the registrar or clerk of the registering court an exemplification or a certified copy of the judgment, together with the order for such registration, whereupon the same shall be entered as a judgment of the registering court. 1929, c. 29, s. 3. Registration of judgment.

**3.** No judgment shall be ordered to be registered under this Act if it is shown to the registering court that,— Conditions of registration.

- (a) the original court acted without jurisdiction; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
- (e) an appeal is pending, or the judgment debtor is entitled and intends to appeal, against the judgment; or
- (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason would not have been entertained by the registering court; or
- (g) the judgment debtor would have a good defence if an action were brought on the original judgment. 1929, c. 29, s. 4.

Effect of  
registration.

4. Where a judgment is registered under this Act,—

- (a) the judgment shall, as from the date of the registration, be of the same force and effect, and subject to the provisions of this Act, proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up in the registering court on the date of the registration;
- (b) the registering court shall have the same control and jurisdiction over the judgment as it has over judgments given by itself;
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court, and of the application for registration, shall be recoverable in like manner as if they were sums payable under the judgment, such costs to be first taxed by the proper officer of the registering court, and his certificate thereof endorsed on the order for registration. 1929, c. 29, s. 5.

Notice of  
registration  
on *ex parte*  
order.

5. In all cases in which registration is made upon an *ex parte* order, notice thereof shall be given to the judgment debtor within one month after such registration, and such notice shall be served in the manner provided by the practice of the registering court for service of writs of process, or of notice of proceedings, and no sale under the judgment of any property of the judgment debtor shall be valid if made prior to the expiration of the period fixed by section 6 or such further period as the court may order. 1929, c. 29, s. 6.

Setting aside  
*ex parte*  
order.

6. In all cases in which registration is made upon an *ex parte* order, the registering court may on the application of the judgment debtor set aside the registration upon such terms as the court may think fit, and such application shall be made within one month after the judgment debtor has notice of the registration, and the applicant shall be entitled to have the registration set aside upon any of the grounds mentioned in section 3. 1929, c. 29, s. 7.

Power to  
make rules  
of court.

7. Rules of court may be made for regulating the practice and procedure, (including costs), in respect of proceedings of any kind under this Act. 1929, c. 29, s. 8.

Application  
of Act.

8.—(1) Where the Lieutenant-Governor is satisfied that reciprocal provision has been or will be made by any other



province or territory of the Dominion of Canada for the enforcement within that province or territory of judgments obtained in any superior, county or district court of this province, the Lieutenant-Governor may, by Order-in-Council, direct that this Act shall apply to that province or territory, and thereupon this Act shall apply accordingly.

(2) An Order-in-Council under this section may be varied, <sup>Order may be varied.</sup> or revoked by a subsequent order. 1929, c. 29, s. 9.

9. Nothing herein contained shall deprive any judgment creditor of the right to bring an action for the recovery of the amount of his judgment instead of proceeding under this Act. <sup>Effect of Act.</sup> 1929, c. 29, s. 10.

(NOTE—*The Reciprocal Enforcement of Judgments Act was proclaimed as between Ontario and Saskatchewan, 9th May, 1930; as between Ontario and British Columbia, 14th January, 1931; as between Ontario and New Brunswick, 24th October, 1933; and as between Ontario and Alberta, 30th May, 1935.*)

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## CHAPTER 125.

## The Execution Act.

Interpreta-  
tion.

## 1. In this Act,—

“Execu-  
tion.”

- (a) “Execution” shall include a writ of *fieri facias* and every subsequent writ for giving effect thereto;

“Sheriff.”

- (b) “Sheriff” shall include any officer to whom an execution is directed. R.S.O. 1927, c. 112, s. 1.

## EXEMPTION.

Chattels  
exempt from  
seizure.

## 2. The following chattels shall be exempt from seizure under any writ issued out of any court, namely:

Bedding.

- (a) The beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family;

Apparel.

- (b) The necessary and ordinary wearing apparel of the debtor and his family;

Furniture.

- (c) One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and a shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve teacups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated not exceeding in value \$200;

- (d) All necessary fuel, meat, fish, flour and vegetables, Fuel and provisions. actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value \$80. R.S.O. 1927, c. 112, s. 2, cls. (a-d).
- (e) One cow, six sheep, four hogs, twelve hens, and one Animals. team of horses and harness necessary for the same, in all not exceeding the value of \$400, and food therefor for thirty days, and one dog; R.S.O. 1927, c. 112, s. 2, cl. (e); 1933, c. 14, s. 2; 1936, c. 56, s. 8.
- (f) Tools and implements of, or chattels ordinarily used Tools. in, the debtor's occupation, to the value of \$200; but if a specific article claimed as exempt be of a value greater than \$200 and there are not other Exempted article valued at over \$200. goods sufficient to satisfy the writ such article may be sold by the sheriff who shall pay \$200 to the debtor out of the net proceeds, but no sale of such article shall take place unless the amount bid therefor shall exceed \$200 and the cost of sale in addition thereto;
- (g) Fifteen hives of bees. R.S.O. 1927, c. 112, s. 2, Bees. cls. (f, g.)

**3.** The debtor may, in lieu of tools and implements or of chattels ordinarily used in his occupation referred to in clause *f* of section 2, elect to receive the proceeds of the sale thereof up to \$200, in which case the officer executing the writ shall pay the net proceeds of the sale if the same do not exceed \$200, or, if the same exceed \$200, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under clause *f*. R.S.O. 1927, c. 112, s. 3. Right of debtor to part proceeds of sale of implements.

**4.** The sum to which a debtor is entitled, under clause *f* Money derived from sale of exempted goods. of section 2, or under section 3, shall be exempt from attachment or seizure at the instance of a creditor. R.S.O. 1927, c. 112, s. 4.

**5.** Chattels exempt from seizure shall, after the death of the debtor, be exempt from the claims of his creditors, and his widow shall be entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor shall be entitled to them. R.S.O. 1927, c. 112, s. 5. Disposal of exempted goods after death of the debtor.

**6.** The debtor, his widow or family, or, in the case of Right of selection.

infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.S.O. 1927, c. 112, s. 6.

Articles for which debt incurred.

7. Nothing herein shall exempt any article enumerated in clauses c to g of section 2 from seizure to satisfy a debt contracted for such article. R.S.O. 1927, c. 112, s. 7.

Sheriff may sell any lands of execution debtor, including those held in trust for him.

8. The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor. R.S.O. 1927, c. 122, s. 8.

#### WRITS AGAINST LANDS AND GOODS.

From what date binding.

Rev. Stat., c. 174.

9.—(1) Subject to the provisions of *The Land Titles Act*, a writ of execution shall bind the goods and lands against which it is issued from the time of the delivery thereof to the sheriff for execution, but save as to bills of sale and chattel mortgages, no writ of execution against goods shall prejudice the title to such goods acquired by any person in good faith and for valuable consideration unless such person had, at the time when he acquired his title, notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in his hands unexecuted. R.S.O. 1927, c. 112, s. 9 (1); 1929, c. 35, s. 2.

Endorsement.

(2) The sheriff shall, upon the receipt of the writ and without fee, endorse thereon the day of the year, the month, the hour and the minute when the same was received.

Exception.

(3) Subsection 1 shall not apply to an execution against goods issued out of a division court, which shall bind only from the time of the seizure. R.S.O. 1927, c. 112, s. 9 (2, 3.)

Liability of land to execution. Rev. Stat., c. 100.

10. Subject to the provisions of *The Judicature Act* and rules of court, land and other hereditaments and real estate belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty or to any of his subjects, and shall be assets for the satisfaction thereof, and shall be subject to the like remedies, proceedings and process for seizing, selling or disposing of the same towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. R.S.O. 1927, c. 112, s. 10.



SEIZURE OF CERTAIN INTERESTS UNDER EXECUTION  
AGAINST GOODS.

**11.** Shares and dividends, and any equitable or other right, property, interest or equity of redemption in or in respect of shares or dividends in an incorporated bank or an incorporated company having transferable shares shall be deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and may be sold thereunder in like manner as other personal property. R.S.O. 1927, c. 112, s. 11.

Shares and dividends and equitable interests therein.

**12.—**(1) The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares, and on being required to seize the same, shall forthwith serve a copy of the execution on the bank or company with a notice that all the shares of the execution debtor are seized thereunder, and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor shall be valid unless and until the seizure has been discharged, and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and the same shall not, after notice as aforesaid, be paid by the bank or company to any one except the person to whom the shares have been sold. R.S.O. 1927, c. 112, s. 12 (1).

Notice of seizure.

Duty of bank or company.

(2) Such seizure may be made and notice given by the sheriff where the bank or company has within his bailiwick a place at which service of process may be made, or where a share register is kept. R.S.O. 1927, c. 112, s. 12 (2); 1929, c. 35, s. 3.

How seizure made.

**13.** If the bank or company has more than one place where service of process may be made, and there is some place where transfers of shares may be notified to and entered by the bank or company, so as to be valid as regards the bank or company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the bank or company to pay twice, or so as to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the bank or company to so transmit. R.S.O. 1927, c. 112, s. 13.

Provisions for the case of more than one place of service.

Mode of proceeding after sale.

**14.** Where any such share is sold the sheriff shall within ten days after sale serve upon the bank or company at some place where service of process may be made a copy of the execution, with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same rights and be under the same obligations as if he had purchased the share from the execution debtor at the time of the service of notice under section 12. R.S.O. 1927, c. 112, s. 14.

Saving of all other remedies.

**15.**—(1) Nothing in this Act shall affect any remedy which the execution creditor might, without this Act, have had against any such share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof, and the provisions of sections 11, 12, 13 and 14 shall apply to such remedy in so far as they can be applied thereto. R.S.O. 1927, c. 112, s. 15.

Seizure and sale of shares in private company.

(2) If a sheriff seizes the shares of an execution debtor in a private company he shall first offer them for sale to the other shareholders or any one of them in such private company, and if none of them will purchase the shares for a reasonable price the sheriff may then offer the debtor's interest therein for sale to the public generally and sell and convey to the highest bidder. 1929, c. 35, s. 4.

Procedure for sale of equitable interests.

**16.** The procedure for seizure and sale in the case of an equitable or other right, property, interest or equity of redemption in or in respect of any share shall be the same as hereinbefore provided in the case of shares and dividends, and the same shall be held to be personal property found in the place where notice of the seizure is served. R.S.O. 1927, c. 112, s. 16.

Rights under patent of invention.

**17.**—(1) All rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein shall be deemed to be personal property and may be seized and sold under execution in like manner as other personal property.

How seizable.

(2) Such seizure and sale may be made by the sheriff of any county or district having in his hands to be executed an execution against the property of the debtor who is the owner of or interested in the letters patent.

Notice of seizure.

(3) Notice of the seizure shall forthwith be given to the Patent Office and the interest of the debtor shall be bound from the time when the notice is received there. R.S.O. 1927, c. 112, s. 17.

18. The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods, chattels or personal property, including leasehold interests in any land of the execution debtor, and, except where the sale is under an execution against goods issued out of a division court, the sale shall convey whatever equitable or other right, property, interest or equity of redemption he had or was entitled to in or in respect of the goods, chattels or personal property at the time of the delivery of the execution to the sheriff for execution, and where the sale is under an execution against goods issued out of a division court the sale shall convey whatever equitable or other right, property, interest or equity of redemption the debtor had or was entitled to in or in respect of the goods, chattels or personal property at the time of the seizure. R.S.O. 1927, c. 112, s. 18.

19.—(1) The sheriff shall seize any money or bank-notes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes bonds, mortgages, specialties or other securities for money belonging to the person against whom the execution has been issued, and, subject to the provisions of *The Creditors Relief Act*, shall pay or deliver to the party who sued out the execution the money or bank-notes so seized, or a sufficient part thereof, and hold such cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money as security for the amount directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff may sue in his own name for the recovery of the sums secured thereby. R.S.O. 1927, c. 112, s. 19.

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may sue in his own name for the recovery of the moneys payable in respect thereto.

(3) If it appears to the sheriff that an attempt to collect the book debts, choses in action or the securities for the money, referred to in subsections 1 and 2 would be less beneficial to the creditors than a sale thereof, the sheriff may proceed to sell such book debts, choses in action and securities by public auction in the same way as the debtor's goods may be sold when taken in execution. 1929, c. 35, s. 5.

(NOTE—As to proceedings under division court executions, see also *The Division Courts Act*, Rev. Stat. c. 107.)

20. The payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security, with or without suit, or

Equitable rights in chattels.

Money and securities for money.

Rev. Stat., c. 126

Sheriff's right to sue.

Book debts and choses in action.

Sale of same by sheriff.

Effect of payment to sheriff.

recovery from him, shall discharge him to the extent of such payment or recovery from his liability thereon. R.S.O. 1927, c. 112, s. 20.

Payment of  
proceeds.

Rev. Stat.,  
c. 126.

**21.** Subject to the provisions of *The Creditors Relief Act* the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains the same shall be paid to the party against whom the execution issued. R.S.O. 1927, c. 112, s. 21.

Indemnity  
of sheriff.

**22.** A sheriff shall not be bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action. R.S.O. 1927, c. 112, s. 22.

When sheriff  
obliged to  
seize goods  
claimed by  
third parties.

**23.—(1)** A sheriff shall not, without written instructions and a bond as hereinafter mentioned, be obliged to seize property which is in the possession of a third person claiming the same, and not in the possession of the debtor against whose property the execution was issued.

Instructions.

**(2)** The instructions shall specify the property in such a way as to enable the sheriff to identify it.

Bond.

**(3)** The bond shall be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties who shall justify in double the value of the property, and the value shall be stated in an affidavit by the creditor or his solicitor or agent attached to the bond.

Conditions  
of bond.

**(4)** The bond shall be assignable to the claimant, and shall be conditioned that the persons executing the same shall be liable for the damages, costs and expenses which the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, and which he does not recover from other persons who ought to pay the same.

Settlement  
by judge.

**(5)** If the sheriff is not satisfied with the bond offered the matter in difference shall be determined by a judge of the county or district court of the county or district.



(6) Nothing in this section shall limit the right of the sheriff to apply for relief by interpleader. R.S.O. 1927, c. 112, s. 23. <sup>Right of sheriff to interpleader.</sup>

**24.**—(1) If a sheriff is informed on behalf of the execution creditor that the execution debtor is a mortgagee of land and that the mortgage is registered, or that he is entitled to receive a sum of money charged upon land by virtue of a registered instrument, and if the sheriff is required on behalf of the execution creditor to seize the mortgage or charge, and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the registrar or master of titles in whose office the mortgage or other instrument is registered, who shall forthwith register the same, a notice in the form or to the effect following: <sup>Taking money secured by mortgage under execution.</sup>

To the Registrar of <sup>(or as the case may be)</sup>

By virtue of an execution issued out of the Supreme Court of Ontario <sup>(or as the case may be)</sup> <sup>Form of sheriff's notice to registrar.</sup>  
 whereby I am commanded to levy of the goods and chattels of <sup>(or as the case may be)</sup>  
*A. B.* \$ for debt, and \$ for costs  
 lately adjudged to be paid by *A.B.* to *C.D.*, besides the costs of execution,  
 I have this day seized and taken in execution all the estate, right, title  
 and interest of *A.B.* in a mortgage made by *X.Y.* to *A.B.*, bearing date  
 the day of 19, and registered in the registry office for  
 the County of <sup>(or as the case may be)</sup> on the day  
 of 19, as number <sup>(or the said mortgage</sup>  
*or other instrument may be described in any other manner by reference to*  
*dates, parties and the land covered as will enable the notice to be registered*  
*against the land therein described)* and in the money secured thereby,  
 and this notice is given for the purpose of binding the interest of *A.B.*  
 under sections 24 to 28 of *The Execution Act*.

Dated this day of 19.

(Signed) *M. N.*,  
 Sheriff of the County (or District) of

(2) Upon registration of the notice the interest of the execution debtor in the mortgage or other instrument, and in the land therein described, and in the money thereby secured and in all covenants and stipulations for securing payment thereof, shall be bound by the execution, and such registration shall be notice of the execution and seizure to all persons who may thereafter in any way acquire any interest in the mortgage, land, money or covenants, and the rights of the sheriff and of the execution creditor shall have priority over the rights of all such persons subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to section 25. R.S.O. 1927, c. 112, s. 24. <sup>Effect of registration of sheriff's notice to registrar.</sup>

**25.**—(1) A notice similar to that mentioned in section 24 shall also be served upon the mortgagor or the person who <sup>Notice to mortgagor.</sup>

is liable to pay the money secured by the registered instrument, and after such service the person served shall pay to the sheriff all money then payable and, as it becomes due, all money which may become payable to the execution debtor so far as may be necessary to satisfy the execution.

Mode of effecting service.

(2) Service of the notice may be made personally, or by leaving it at the dwelling-house of the person to be served with a grown up person residing there, or by registered post to the proper address of the person to be served.

Payments made after notice.

(3) Any payment made after service of the notice or after actual knowledge of the seizure shall be void as against the sheriff and the execution creditor. R.S.O. 1927, c. 112, s. 25.

Sheriff enforcing mortgage.

**26.** In addition to the remedies herein provided the sheriff may bring an action on any mortgage or other instrument seized under the provisions of this Act for the sale or foreclosure of the land covered by it, and shall be entitled to a bond of indemnity as in the cases provided for in section 22. R.S.O. 1927, c. 112, s. 26.

Indemnity.

When seizure may be vacated.

**27.**—(1) Upon an execution, notice whereof is registered under section 24, expiring or being satisfied, set aside or withdrawn, a certificate of such fact shall be given by the sheriff or by the execution creditor, and the same or the order to set aside, as the case may be, may be registered, and thereupon such seizure shall be vacated and be at an end.

Verification of order and certificates.

(2) The order or the certificate of the sheriff shall not require verification.

Idem.

(3) The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting land. R.S.O. 1927, c. 112, s. 27.

Fees of registrar and sheriff.

**28.** For the registration of a notice under section 24 or of a certificate under section 27 the registrar or master shall be entitled to a fee of fifty cents, and for every notice of seizure under section 24 the sheriff shall be entitled to a fee of \$1, and for every certificate under section 27 to a fee of seventy-five cents. R.S.O. 1927, c. 112, s. 28.

Taking chattel mortgage in execution.

**29.** Where an execution debtor is a mortgagee of chattels, and the mortgage is registered as required by law, sections 24, 25, 26, 27 and 28 shall be applicable, except that the notice to be given by the sheriff shall be delivered or transmitted to the clerk of the county or district court or other officer in whose office the chattel mortgage is registered. R.S.O. 1927, c. 112, s. 29.

## EQUITY OF REDEMPTION IN LAND.

**30.** Where the word "mortgagor" occurs in sections 31, 32 and 33, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption" were inserted immediately after the word "mortgagor." R.S.O. 1927, c. 112, s. 30.

**31.**—(1) The sheriff to whom an execution against the lands and tenements of a mortgagor is directed may seize, sell and convey all the interest of the mortgagor in any mortgaged lands and tenements.

(2) The equity of redemption in freehold land shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as land and tenements may now be sold under an execution.

(3) Where more mortgages than one of the same lands have been made to the same mortgagee or to different mortgagees, subsections 1 and 2 shall apply, and the equity of redemption shall be saleable under an execution against the lands and tenements of the owner, subject to the mortgages, in the same manner as in the case of land subject to one mortgage only. R.S.O. 1927, c. 112, s. 31.

**32.** The effect of the seizure or taking in execution, sale and conveyance of mortgaged lands and tenements shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the execution was placed in the hands of the sheriff, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place, and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor. R.S.O. 1927, c. 112, s. 32.

**33.** A mortgagee of land, or the executors, administrators or assigns of a mortgagee, being or not being the execution creditor, may be the purchaser at the sale, and shall acquire

the same estate, interest and rights thereby as any other purchaser, but in that event he or they shall give to the mortgagor a release of the mortgage debt, and if another person becomes the purchaser, and if the mortgagee, his executors, administrators or assigns shall enforce payment of the mortgage debt by the mortgagor the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged land. R.S.O. 1927, c. 112, s. 33.

#### CONTINGENT INTERESTS.

Liability to execution.

Rev. Stat., c. 152.

**34.**—(1) Any estate, right, title or interest in land which, under section 9 of *The Conveyancing and Law of Property Act*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person in like manner and on like conditions as land is by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign it to the purchaser in the same manner and with the same effect as the person might himself have done.

Except inchoate right to dower.

(2) An inchoate right to dower shall not be liable to seizure or sale under execution.

Property subject to power of appointment.

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where the same is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after the property of the deceased has been exhausted. R.S.O. 1927, c. 112, s. 34.

#### CHURCH PEWS AND SITTINGS.

Interest in pew or sitting.

**35.**—(1) The interest of any person derived by deed, lease or license in writing from the churchwardens or other authorities of any church in a pew or sitting, if such interest is assignable by the holder thereof, may be sold under execution at the suit of such churchwardens or other authorities for arrears of rent or other charge to which such pew or sitting is subject, or which the holder thereof may have agreed to pay or for which he may be liable, or at the suit of any creditor of such holder, and such churchwardens or other



authorities may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired.

(2) The sheriff may execute a deed to the purchaser of <sup>Deed.</sup> the interest so sold, and the churchwardens or other authorities shall, on production of such deed, give effect to the same upon payment of any arrears of rent or charge then due.

(3) Such sale shall be subject to any continuing rent or <sup>Saving.</sup> charge of such pew or sitting previously stipulated for or imposed, and shall not prejudice the right to impose increased rent or charges on such pew or sitting pursuant to *The Church 3. V., c. 74. Temporalities Act*, or any other law or custom. R.S.O. 1927, c. 112, s. 35.

#### EXECUTIONS AGAINST EXECUTORS.

**36.** The title and interest of a testator or intestate in land may be seized and sold under an execution upon a judgment recovered by a creditor of the testator or intestate against <sup>How execu-  
tion enforce-  
able against  
executor,  
etc.</sup> his executor or administrator in the same manner and under the same process as upon a judgment against the deceased if he were living. R.S.O. 1927, c. 112, s. 36.

#### EXECUTIONS AGAINST MUNICIPAL CORPORATIONS.

**37.**—(1) An execution against a municipal corporation may be indorsed with a direction to the sheriff to levy the <sup>Direction to  
levy rate.</sup> amount thereof by rate, and the proceedings thereon shall then be the following,—

- (a) the sheriff shall deliver a copy of the writ and indorsement to the treasurer of the municipal corporation, or leave such copy at the office or dwelling-place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service; <sup>Statement of  
claim to  
treasurer.</sup>
- (b) if the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the <sup>When sheriff  
to strike  
rate.</sup>

same as the sheriff deems sufficient to cover the interest up to the time when the rate will probably be available, and his own fees and poundage;

Sheriff's precept to collector, etc., to levy rate.

- (c) the sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the corporation, and shall annex to the precept the roll of such rate, and shall by the precept after reciting the writ and that the corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates;

Rate rolls.

- (d) if, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. *vs.* The Township" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon;

Surplus.

- (e) the sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the municipal corporation.

Functions of clerk, assessors and collectors.

- (2) The clerk, assessor, and collector of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1927, c. 112, s. 37.
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## CHAPTER 126.

## The Creditors Relief Act.

## 1. In this Act;—

Interpreta-  
tion.

(a) "County" shall include a provisional judicial dis- "County."  
trict;

(b) "County court" shall include district court; "County  
court."

(c) "Execution" shall include a writ of *fieri facias* and "Execu-  
every subsequent writ for giving effect thereto; tion."

(d) "Judge" shall mean a judge of the county court of "Judge."  
the county the sheriff of which is required to take  
the proceedings directed by this Act;

(e) "Sheriff" shall include any officer to whom an execu- "Sheriff."  
tion is directed. R.S.O. 1927, c. 113, s. 1.

2. Where a judge is disqualified to act in a matter arising Where judge  
under this Act, a judge of the county court of an adjoin- is  
ing county shall have jurisdiction to act in his place. R.S.O. disqualified.  
1927, c. 113, s. 2.

3. Subject to the provisions hereinafter contained, there Priority  
shall be no priority among creditors by execution from the among  
Supreme Court or from a county court. R.S.O. 1927, c. 113, execution  
abolished.  
s. 3.

4.—(1) A creditor who attaches a debt shall be deemed to Attachment  
do so for the benefit of all creditors of his debtor as well as to be for  
for himself. benefit of  
all creditors.

(2) Payment of such debt shall be made to the sheriff of To whom to  
the county in which the garnishee resides or, if there are be paid.  
more garnishees than one in respect of the same debt, then  
to the sheriff of the county in which any one of them resides.

(3) This section shall not apply to debts attached by pro- Attachments  
ceedings in a division court unless before the amount recov- in division  
ered by the garnishee proceedings is actually received by the courts.  
creditor an execution against the property of the debtor is  
placed in the hands of the sheriff of such county.

Money paid to sheriff who has no execution in hand.

(4) Where money is paid to a sheriff in whose hands there is no execution against the property of the debtor, and there is in the hands of the sheriff of another county an execution against the property of the debtor, the court or a judge on the application of such last mentioned sheriff or of a creditor or of the debtor may direct, on such terms as to costs and otherwise as may seem just, that such money be paid over to such last mentioned sheriff to be distributed by him as if such money had then been paid to him by the garnishee, and the court or judge shall fix the compensation to be paid to the sheriff by whom the money was received from the garnishee for his services.

Money paid into division court.

(5) Where money which a sheriff is entitled to receive under the provisions of this section is paid into a division court the sheriff shall be entitled to demand and receive the same from the clerk of such court for the purpose of distributing it under the provisions of this Act.

Right of attaching creditor to share with other creditors.

(6) An attaching creditor shall be entitled to share in respect of his claim against the debtor in any distribution made under the provisions of this Act, but his share shall not exceed the amount recovered by his garnishee proceedings unless he has in due time placed an execution or a certificate given under this Act in the sheriff's hands.

Sheriff's poundage.

(7) The sheriff shall be entitled to poundage upon money received and distributed by him under the provisions of this section at the rate of one and a quarter per centum and no more.

Sheriff's right to recover attached debt.

(8) If an attached debt which the sheriff is entitled to receive, or any part of it, is received by the attaching creditor the sheriff may recover the same from him; but a clerk of a division court shall not be liable for making payment to the creditor unless at the time of payment he has notice that there is an execution against the property of the debtor in the sheriff's hands. R.S.O. 1927, c. 113, s. 4.

Entries by sheriff after levy.

5.—(1) Where a sheriff levies money under an execution against the property of a debtor, or receives money in respect of a debt which has been attached or sold under the provisions of section 15 of *The Absconding Debtors Act*, he shall forthwith make an entry (Form 1) in a book to be kept in his office open to public inspection without charge.

Rev. Stat., c. 127.

Distribution.

(2) The money shall thereafter be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Act were in the sher-



iff's hands at the time of the levy or receipt of the money, or who deliver their executions or certificates to the sheriff within one month from the entry, subject to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose execution the amount was made, and subject also to the provisions of subsection 6 of section 4, and, as respects money recovered by garnishee proceedings, subject to the payment thereof to the creditor who obtained the attaching order of his costs of such proceedings.

(3) Subsection 2 shall not apply to money received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader proceeding in favour of the creditors the money, whether in the sheriff's hands or in court pending such determination, shall, subject to the provisions of subsection 4, be distributed by the sheriff among the creditors contesting the adverse claim.

Money realized on sale under interpleader order.

(4) Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader those creditors only who are parties thereto and who agree to contribute *pro rata* in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates.

Rights of creditors in case of interpleader proceedings.

(5) The judge making the interpleader order may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client, shall be a first charge upon the money or goods which may be found by the proceedings to be applicable upon the executions or certificates.

Order as to carriage of proceedings.

(6) Upon any interpleader application the judge may allow to other creditors who desire to take part in the contest a reasonable time in which to place their executions or certificates in the sheriff's hands upon such terms as to costs and otherwise as may be deemed just.

Time allowed in interpleader.

(7) Where the sheriff, subsequently to the entry, but within the month, levies a further amount from the property of a debtor or receives money in respect of a debt which has been attached or sold the same shall be dealt with as if such amount had been levied or received prior to the entry.

Application of subsequent levy.

Notice and distribution on further levy.

(8) If, after the month, a further amount is so levied or received a new notice shall be entered and the distribution to be made of the amount so levied or received and of any further amount levied or received within a month of the entry of the last mentioned entry shall be governed by the entry thereof in accordance with the foregoing provisions of this section, and so from time to time as further amounts are so levied or received.

Share in subsequent distribution.

(9) Where a creditor has shared in a previous distribution he shall be entitled to share in a subsequent one only in respect of the amount remaining due to him after crediting what he has received in any previous distribution.

Equality of all executions.

(10) In distributing money under this section creditors who have executions against goods or lands only or against goods and lands shall be entitled to share rateably with all others and money realized under execution against either goods or lands or against both, or under an attaching order.

What creditors may share.

(11) Subject to the provisions of subsection 6 of section 4 a creditor shall not be entitled to share in the distribution unless by the delivery of an execution, or otherwise under this Act, he has established a claim against the debtor either alone or jointly with some other person.

Money realized under Rev. Stat., c. 127.

(12) Where money in the hands of the sheriff for distribution is the proceeds of the property of an absconding debtor against whom an order of attachment has been issued under *The Absconding Debtors Act*, the period mentioned in subsection 2 shall be two months, and subsection 8 shall be read as if the words "the month" in the first line were "the two months." R.S.O. 1927, c. 113, s. 5.

(NOTE—*As to right of employees of debtors for wages, see The Wages Act, Rev. Stat. c. 196.*)

Proceedings where debtor allows execution to remain unsatisfied.

6.—(1) If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff to remain unsatisfied in the sheriff's hands until within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors or claimants in respect of debts which are overdue.

When sale occurs.

(2) When a sale has taken place under an execution the proceedings hereinafter authorized may be taken by any

creditor of the execution debtor even though his claim is not then due. R.S.O. 1927, c. 113, s. 6.

**7.—**(1) An affidavit (Form 2) of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts. Affidavit of creditor.

(2) Prior to or simultaneously with the filing with the clerk of the county court of the affidavit there shall be filed with him a certificate of the sheriff, or an affidavit, showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act. Filing affidavit or certificate.

(3) The claimant shall serve on the debtor one of the duplicates and a notice (Form 3). Service on debtor.

(4) Where the affidavit and notice are to be served out of Ontario the judge shall by order fix the time after which the next step may be taken by the claimant as hereinafter provided. R.S.O. 1927, c. 113, s. 7. Service out of Ontario.

**8.—**(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon a solicitor in Ontario, whose name and address shall be given, or by mailing the same to an address stated in the notice. Notice by debtor of address for service.

(2) The sheriff shall thereupon enter the notice in the book mentioned in subsection 1 of section 5, and so long as any execution which was in the sheriff's hands at the time the notice was given shall remain in his hands shall repeat such entry immediately below any entry (Form 1), made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked." Entry of notice.

(3) So long as the notice is not revoked the affidavit of claim and notice (Form 3) may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor, or, if mailing is required, then by mailing the same by registered post to the address in the notice given by the execution debtor. Service at address.

(4) Where the notice (Form 3) served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant, or does not give the name and address of some solicitor in Ontario who may be served on the claimant's behalf, service of any notice, Service by mail.

paper or document may be made upon the claimant by mailing the same, by registered post, addressed to the claimant at the county town.

Filing  
affidavit.

(5) The claimant shall file with the clerk of the county court of the county, the sheriff of which has the execution, one of the duplicate affidavits of claim, and a copy of the notice with an affidavit of service thereof (Form 4).

Service  
generally.

(6) The affidavit and the notice shall, where practicable, be personally served upon the debtor; but if it is made to appear to the judge that the claimant is unable to effect prompt personal service, the judge may order substitutional or other service, or may direct some act to be done which shall be deemed sufficient service. R.S.O. 1927, c. 113, s. 8.

Certificate  
where claim  
not disputed.

9.—(1) Where the claim is not contested in manner hereinafter mentioned, after ten days from the day of service, or after the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, on the application of the claimant and his filing proof of due service of the affidavit and notice, or where the claim is contested, upon the determination of the dispute in favour of the claimant, either in whole or in part, the clerk of the county court shall deliver to the creditor a certificate (Form 5), and where the claim is disputed as to a part only, the claimant may elect, by a writing filed with the clerk, to abandon such part and shall be entitled to a certificate as to the residue.

Delivery to  
sheriff and  
effect of  
certificate.

(2) Upon delivery of the certificate to the sheriff the claimant shall be deemed to be an execution creditor within the meaning of this Act, and shall be entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate shall bind the lands and goods of the debtor in the same manner as an execution, subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

In case of  
interpleader.

(3) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

Address for  
service to be  
endorsed.

(4) If the certificate is obtained by a solicitor his name and address shall be endorsed thereon, and if obtained by the claimant in person there shall be endorsed thereon a statement of some place in, or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon him, and, in default thereof, service of any notice, paper or document may be



made upon the claimant by mailing the same by registered post addressed to him at the county town.

(5) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed, and the sheriff's fees, and so from time to time in case further certificates are received. Further levy.

(6) A certificate shall remain in force for three years from the date thereof but may from time to time be renewed in the same manner as an execution. Time of remaining in force.

(7) Notwithstanding the expiry of an execution or certificate before the termination of the month during which a notice of money having been levied or received is required to be entered, the execution or certificate, as to any money levied or received during such month, shall be deemed to be in full force and effect. R.S.O. 1927, c. 113, s. 9. Execution or certificate expiring within month of levy.

**10.**—(1) The claim may be contested by the debtor or by a creditor of the debtor. Contesting claim.

(2) Where the debtor contests the claim, he shall file with the clerk an affidavit stating that he has a good defence to the claim, or to a specified part of it on the merits, but the judge may dispense with the affidavit on terms or otherwise. Affidavit of debtor.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by subsection 4 of section 7 as the case may be, or within such further time as the judge may allow. Filing and serving affidavit.

(4) Where the contestation is by a creditor he shall file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant; but the judge may dispense with the affidavit on terms or otherwise. Contestation by creditor.

(5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit, or after the order of the judge if the affidavit is dispensed with. Notice of contestation.

(6) The affidavit by a creditor may be filed, and a certificate thereof delivered to the sheriff, at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certificate to the claimant. Certificate of contestation.

Address for  
service.

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place, in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon him, or the address of a solicitor in Ontario who may be served on his behalf, and in default thereof, service of any notice, paper or document may be made upon the debtor or contestant by mailing the same by registered post addressed to him at such county town. R.S.O. 1927, c. 113, s. 10.

Service on  
Toronto  
agent.

**11.** Where the address of a solicitor is given for service which is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R.S.O. 1927, c. 113, s. 11.

Distribution  
in case of  
contestation.

**12.—(1)** Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff unless the judge otherwise orders, shall levy as if such contestation had not been made, and shall, until the determination of the contestation, retain in the bank the amount which would be apportionable to the claim if valid, and shall, as soon after the expiry of the month as is practicable, distribute the residue of the money made amongst those entitled.

Application  
for allow-  
ance of  
claim.

(2) The claimant whose claim is contested may apply to the judge for an order allowing his claim and determining the amount, and if he does not make such application within eight days after receiving notice of the contestation or within such further time, if any, as the judge may allow, he shall be taken to have abandoned his claim.

When  
contest is  
not in good  
faith.

(3) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contestation. R.S.O. 1927, c. 113, s. 12.

Trial of  
contestation.

**13.—(1)** The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and make such order as to the costs of the proceedings as he may deem just.

Where  
amount in  
controversy  
exceeds \$400.

(2) Where the sum in controversy appears to be over \$400 exclusive of costs, the judge shall direct that the action be brought on the issue tried in the Supreme Court, and subject to any order which that court or a judge thereof may make

in that behalf, shall name the county in which the trial is to take place.

(3) Where an issue is directed the trial shall take place and all proceedings subsequent thereto shall be the same as if it had been an action in the court in which it is ordered to be tried. Proceedings where issue tried. R.S.O. 1927, c. 113, s. 13.

**14.** The same proceedings may be had for the production of documents and for the examination of parties or others, Production, examination, etc. either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to the judge, and as a foundation therefor. R.S.O. 1927, c. 113, s. 14.

**15.—**(1) The clerk of the county court shall keep a book in which, before giving a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate or issues an execution:— Clerk to keep book of record.

(a) The name of the claimant, and of the debtor;

(b) The date of the entry;

(c) The amount of the debt, exclusive of costs;

(d) The amount of costs;

(e) If the proceedings have been set aside, that fact, and shortly the reason therefor.

(2) The entry shall, subject to the provisions of this Act, have the effect of and be a final judgment of the court for the debt and costs. Effect of entry.

(3) The clerk shall index the entries in a book alphabetically under the names of the debtors. Index.

(4) Where the original papers are lost or destroyed a copy of the entry shall be evidence of the matters therein set forth. Copy of entry as evidence. R.S.O. 1927, c. 113, s. 15.

**16.** A creditor who has recovered a judgment in a division court against the debtor may deliver to the sheriff a certificate, under the hand of the clerk and the seal of the division court, of the amount of his judgment and of the costs to which he is entitled, and the certificate so delivered shall have the same effect, for the purposes of this Act, as if the Division court judgment creditors.

creditor had delivered to the sheriff an execution from a county court. R.S.O. 1927, c. 113, s. 16.

Establishing  
claim in  
another  
country.

**17.** Where a creditor has taken in one county the prescribed proceedings in respect of his claim and desires to establish his claim, for the purposes of this Act in another county he may do so by obtaining from the clerk of the county court of the county first mentioned another certificate (Form 5), and delivering the same to the sheriff of such other county, and the delivery of the certificate to the sheriff shall have the same effect in such other county from the time of the delivery thereof as if the certificate had been issued by the clerk of the county court of such other county upon the proceedings therein. R.S.O. 1927, c. 113, s. 17.

Executions  
may issue to  
any county.

**18.** A creditor, entitled to obtain a certificate from the clerk of a county court, may also sue out an execution into any county in the same manner as on an ordinary judgment; but this shall not prejudice the right of any other creditor to contest the claim of such first mentioned creditor under the provisions of this Act. R.S.O. 1927, c. 113, s. 18.

Effect of  
decision  
after  
contestation.

**19.**—(1) Where a claim is contested in one county, the decision thereon shall, as between the parties to the contestation, determine the amount of the claim, for the purposes of this Act, and in all other counties in which the claim is filed, and the certificate of the clerk of the county court of the county in which the contestation has taken place of the result thereof shall be sufficient evidence of the decision.

Fee for  
certificate  
of result.

(2) Upon payment of a fee of fifty cents the certificate shall be granted to any party to the proceedings who applies therefor. R.S.O. 1927, c. 113, s. 19.

Effect of  
payment or  
withdrawal  
of all  
executions  
and  
certificates.

**20.**—(1) Where the debtor, without a sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed, or where all executions and certificates in the sheriff's hands are withdrawn and any claims filed are paid or withdrawn, notice shall not be entered under the provisions of section 5 and no further proceedings shall be taken under section 6.

Where not  
all satisfied.

(2) Save as aforesaid after a certificate has been delivered to the sheriff, the withdrawal or expiry of the execution upon which the proceedings are founded, or any stay of the same, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the execution, shall not affect the proceedings which may be taken under this Act, and except so



far as the action taken with respect to the execution may affect the amount to be levied, the sheriff shall levy upon the property of the debtor, as he would have done had the execution remained in his hands in full force for execution, and he may also take the like proceedings as he would have been entitled to take had the execution been a writ of *venditioni exponas*.

(3) Where a debtor, without a sale by the sheriff, pays to him part of the amount owing in respect of an execution or certificate in his hands, and there is at the time no other execution or certificate in his hands, he shall apply the same on the execution or certificate, and section 5 shall not apply to the money so paid. R.S.O. 1927, c. 113, s. 20.

Effect of  
part pay-  
ment where  
one debt.

**21.**—(1) Where proceedings have been taken against a debtor under *The Absconding Debtors Act*, and his property has been attached under an order of attachment before an execution has been placed in the hands of the sheriff, and the money levied is the proceeds of such property or a part thereof, the cost of the order of attachment, or, if there are more than one, the one first placed in the sheriff's hands and the proceedings thereon shall have priority over the claim of all other creditors.

Priority of  
costs under  
Rev. Stat.,  
c. 127.

(2) Where an attaching creditor is entitled to priority under subsection 1 the priority provided for by subsection 2 of section 5 shall not be given to the execution creditor. R.S.O. 1927, c. 113, s. 21.

Attaching  
creditor and  
execution  
creditor.

**22.**—(1) The clerk of the county court shall ascertain and state in his certificate the amount of the costs to which the claimant is entitled as against the debtor.

Costs of  
claimant.

(2) Such costs shall be the following:

(a) For serving the affidavit of claim and notice, in the case of claims over \$400, on the scale of the Supreme Court, and in the case of claims exceeding \$200 and not exceeding \$400, on the county court scale, and in the case of claims of \$200 and under, on the division court scale; but if the claim does not exceed \$200 no greater fees are to be allowed than would be allowed to a division court bailiff for the service of a division court summons and mileage if the claim had been sued in the proper division court;

Scale of  
costs.

(b) The fees paid to the clerk of the county court, on

the scale for like proceedings in the county court, unless the claim does not exceed \$200, in which case his fees shall be those allowable for like proceedings in the division court;

- (c) Where there is no contest, \$5 for fees of a solicitor, if one is employed, unless the amount of the claim does not exceed \$200, in which case the sum of \$2 shall be allowed;
- (d) Where there is a contest, such additional costs as the judge may allow, to be taxed on the scale of the Supreme Court, county court, or division court, according as the amount in dispute is within the jurisdiction of one or other of such courts;
- (e) The costs of obtaining an order for substitutional service or other similar order and of such service, and of or incidental to service out of Ontario, if the claim is within the jurisdiction of the division court, only such costs as would have been allowed in the division court. R.S.O. 1927, c. 113, s. 22.

Payment to  
sheriff of  
fund in  
court.

**23.** Where there is in any court a fund belonging to an execution debtor, or to which he is entitled, the same or a sufficient part thereof to meet the executions and certificates in the sheriff's hands may, on the application of the sheriff or any person interested, be paid over to the sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act. R.S.O. 1927, c. 113, s. 23.

Money made  
by receiver.

**24.** Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor, the receiver shall pay into court the money received by him by virtue of his receivership, and the same shall be subject to the provisions of section 23, but the creditor shall be entitled to be paid thereout the costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors. R.S.O. 1927, c. 113, s. 24.

Goods in  
hands of  
division  
court  
bailiff.

**25.—**(1) If the sheriff does not find property of a debtor leviable under the executions and certificates in his hands sufficient to pay the same in full, but finds property or the proceeds thereof in the hands of the bailiff of a division court under an execution or attachment against the debtor, the sheriff shall demand and obtain them from the bailiff, who shall forthwith deliver the same to the sheriff, with a copy of every execution and attachment in his hands against

Duty of  
bailiff.

the debtor, and a memorandum showing the amount to be levied under the execution, including the bailiff's fees, and the date upon which each execution or attachment was received by him.

(2) If the bailiff fails to deliver any of such property or the proceeds thereof he shall pay double the value of that which is retained, which may be recovered by the sheriff from him with costs of suit, and shall be accounted for by the sheriff as part of the estate of the debtor. Penalty for default.

(3) The costs and disbursements of the bailiff shall be a first charge upon such property or the proceeds thereof and shall be paid by the sheriff to the bailiff upon demand, after being taxed by the division court clerk. Costs.

(4) The sheriff shall distribute the proceeds among the creditors entitled to share in the distribution and the division court execution creditors shall be entitled without further proof to stand in the same position as creditors whose executions are in the sheriff's hands. R.S.O. 1927, c. 113, s. 25. Distribution of proceeds.

**26.** Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the sheriff's fees, including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under the provisions of this Act. R.S.O. 1927, c. 113, s. 26. Apportionment of money when amount insufficient to pay claim in full.

**27.** The sheriff, if directed by an endorsement upon a certificate, shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate, or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate, and where such renewal is made upon the application of a solicitor he shall also levy \$1.25 for the solicitor's costs on the renewal. R.S.O. 1927, c. 113, s. 27. Levy of interest and costs of renewals.

**28.** Where money is to be distributed by the sheriff under this Act he shall not be entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution. R.S.O. 1927, c. 113, s. 28. Sheriff's poundage.

Application  
of money  
made under  
execution.

**29.**—(1) Where money is made under an execution it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and, upon payment being made to the person entitled under any such execution or certificate, the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until the same has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder.

Return.

Compelling  
payment by  
sheriff.

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to a certificate as can now be had to compel the return by the sheriff of an execution. R.S.O. 1927, c. 113, s. 29.

Statement  
to be kept in  
sheriff's  
office, pend-  
ing  
distribution.

**30.** Pending the distribution the sheriff shall keep, in the book mentioned in section 5, a statement (Form 6) showing the following particulars,—

- (a) the amounts levied or received and the dates of levy or receipt;
- (b) each execution, certificate or order in his hands at the time of making the entry (Form 1), or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received. R.S.O. 1927, c. 113, s. 30.

Sheriff to  
give inform-  
ation as to  
estate of  
debtor.

**31.** The sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the property of the debtor by a creditor or any one acting upon his behalf, and shall facilitate the obtaining by him of full information respecting the same and the probable dividend to be realized therefrom in his county, or any other information in connection with the property which the creditor may reasonably desire to obtain. R.S.O. 1927, c. 113, s. 31.

Distribution  
by sheriff  
where  
amount  
levied in-  
sufficient to  
meet all  
claims.

**32.**—(1) Where at the time for distribution the money is insufficient to pay all claims in full the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.



(2) The list shall be so arranged as to show the amount payable to each creditor, and the total amount to be distributed, and the sheriff shall deliver, or send by registered post to each creditor or his solicitor, a copy of the list. Contents of list.

(3) If within eight days after all the copies have been delivered or posted, or within such further time as the judge may allow, no objection is made as provided by this Act the sheriff shall make distribution forthwith pursuant to such list. Time for distribution.

(4) If objection is made the sheriff shall forthwith distribute rateably so much of the money made, and among such persons, as will not interfere with the effect of the objection in case the same should be allowed. Where objection made.

(5) Any person affected by the proposed scheme of distribution may contest the same by giving, within the time mentioned in subsection 3, a notice in writing to the sheriff stating his objection to the scheme and the grounds thereof. Right of contestation.

(6) The contestant shall within eight days thereafter apply to the judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned. Order.

(7) The contestant shall, within the time mentioned in subsection 6, obtain from the judge an appointment for hearing and determining the matter in dispute. Appointment.

(8) A copy of the appointment and a notice in writing, (Form 7), of the objections stating the grounds thereof shall be served by the contestant upon the debtor, unless he is the contestant, and upon the creditors or such of them as the judge may direct. Service.

(9) The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court, and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he may deem just, and the provisions of subsections 2 and 3 of section 13 shall apply. Determination of dispute.

(10) Where a claimant is held to be not entitled, or to be entitled to part only of his claim, the money retained pending the contestation, or the portion as to which the claimant shall have failed, shall be distributed among the creditors who would have been entitled thereto as the same would Distribution of money retained.

have been distributed had the claim in respect thereof not been made.

Rights of subsequent execution creditors where first execution followed by a mortgage.

(11) Where a debtor has executed a mortgage or other charge, otherwise valid, upon his property or any part thereof after the receipt of an execution by the sheriff and before distribution, such mortgage or charge shall not prevent the sheriff from selling the property under any execution or certificate placed in his hands before distribution as if such mortgage or charge had not been given, nor prevent creditors whose executions or certificates are subsequent thereto from sharing in the distribution; but in distributing the money realized from the sale of such property the sheriff shall deduct and pay to the person entitled thereto the amount of such mortgage or charge from the amount which would otherwise be payable out of the proceeds of such property to such subsequent creditors.

Scheme of distribution in above case.

(12) In the case provided for in subsection 11 the sheriff shall prepare a separate scheme of distribution of the proceeds of the encumbered property without reference to the mortgage or charge, and, from the dividends payable according to such scheme to subsequent creditors, there shall be deducted the amount of the mortgage or charge and the amount so deducted shall be paid to the encumbrancer. R.S.O. 1927, c. 113, s. 32.

Directions by judge to avoid unnecessary parties and trials.

**33.** Where several creditors are interested in a contestation, either for or against the same, the judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he may deem just, and shall direct by whom and in what proportions any costs incurred in the contestation, or in any proceedings thereunder, shall be paid, and whether any and what costs shall be paid out of the money levied. R.S.O. 1927, c. 113, s. 33.

Direction by judge to sheriff where claim is disputed.

**34.—**(1) The judge may direct the sheriff to levy for an amount sufficient to cover a claim which is in dispute, or part thereof, or if it appears to the judge that it is improbable that the debtor has other sufficient property he may direct the sheriff to retain in his hands during the contestation the share which, if the claim is sustained, will be apportionable to it, or a part thereof.

Authority of sheriff under order.

(2) An order to levy under this section shall confer on the sheriff the same authority as he would have under an execution. R.S.O. 1927, c. 113, s. 34.

**35.** The decision of a judge of the county court or of the Court of Appeal on an appeal shall bind the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. : R.S.O. 1927, c. 113, s. 35. Effect of decisions.

**36.**—(1) Where money comes into the hands of a sheriff he shall, whenever the same amounts to \$100, deposit it in some incorporated bank designated for that purpose by order of the Lieutenant-Governor in Council, or, where there is no such bank, in some incorporated bank in which public money of Ontario is then being deposited. Deposit of money in bank.

(2) The deposit shall be made in a special account in the name of the sheriff as "Trustee for the creditors of (the debtor)." Special account. R.S.O. 1927, c. 113, s. 36.

**37.** Where there are in the sheriff's hands several executions and certificates, and there does not appear to be sufficient property to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of such sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in such county, and to procure an order and to obtain and enforce payment of the debt, the sheriff may take the same proceedings as a creditor, and in such case an execution may be directed to him in the same manner as if the attachment were by a creditor, and the proceeds of the debt attached shall be dealt with and distributed in the same manner as if he had realized the same under execution. R.S.O. 1927, c. 113, s. 37. Attaching orders by sheriff.

**38.** If any party to a contestation or matter upon which a judge has rendered or made a final judgment or order is dissatisfied with such judgment or order, and the same is in respect to a question involving a sum greater than \$100, he may appeal therefrom to the Court of Appeal as nearly as may be according to the practice in force in respect of appeals from a county court or a judge thereof. R.S.O. 1927, c. 113, s. 38. Appeal.

**39.** For the purpose of giving effect to this Act and carrying out its provisions a judge shall have all the powers which a county court or a judge thereof has by law for other purposes, and any proceedings erroneously taken under this Act may be set aside by the judge, with or without costs as he thinks fit. R.S.O. 1927, c. 113, s. 39. Powers of judge.

**40.** Upon any proceeding before the judge the evidence may be taken orally or by affidavit as the judge may direct. R.S.O. 1927, c. 113, s. 40. Evidence on proceeding before judge.

Fees payable to the Crown.

**41.** Besides the fees authorized to be paid to the clerk of the county court for his own use, the following fees shall be payable to the Crown in law stamps upon all claims filed, where the amount of the claim exceeds \$200:—

	\$ cts.
On an affidavit of claim where the amount claimed does not exceed \$400.....	0 80
On every such affidavit where the claim exceeds \$400.	1 50
On every certificate of the clerk given under section 9, where the claim does not exceed \$400.....	0 80
On every such certificate where the claim exceeds \$400.	1 50
On every order made by the judge allowing or disallowing a claim, where the claim does not exceed \$400.....	0 50
On every such order where the claim exceeds \$400....	1 00

R.S.O. 1927, c. 113, s. 41.

Application  
of Judica-  
ture Act and  
rules of  
court.

Rev. Stat.,  
c. 100.

**42.** Except where inconsistent with this Act, the provisions of *The Judicature Act* and rules of court as to practice and procedure shall apply to proceedings under this Act. R.S.O. 127, c. 113, s. 42.

### SCHEDULE.

## FORM 1.

(Section 5, Subsection 1.)

SHERIFF'S ENTRY.

I have on this day in my hands for distribution under *The Creditors Relief Act* among the creditors of *C.D.*, the sum of \$ \_\_\_\_\_ and the distribution will be made among the creditors of the said *C.D.* entitled to share therein, at the expiration of one month from this day.

Dated \_\_\_\_\_, 19\_\_.

F. G., Sheriff.

R.S.O. 1927, c. 113, Form 1.



FORM 2.

(Section 7, Subsection 1.)

AFFIDAVIT OF CLAIM

THE CREDITORS RELIEF ACT.

In the County Court of the County of

A. B.....Claimant.

and

C. D.....Debtor.

I, A. B., of , in the County of ,  
Merchant (or as the case may be), make oath and say:—

1. I am the above named claimant (or the duly authorized agent of the claimant) in this behalf, and have a personal knowledge of the matter hereinafter deposed to.

2. The above named debtor is justly and truly indebted to me (or to the above named claimant) in the sum of \$ , for  
[here state shortly the nature and particulars of the claim.]

Sworn before me at  
this day of  
19 . } A. B.

A Commissioner, etc., (or as the case may be).

R.S.O. 1927, c. 113, Form 2.

FORM 3.

(Section 7, Subsection 3.)

NOTICE TO BE SERVED WITH CLAIM.

THE CREDITORS RELIEF ACT.

In the County Court of the County of

A. B.....Claimant.

and

C. D.....Debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of the County of (or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors Relief Act*.

And further take notice that if you desire to contest the said claim, or any part thereof, you must, within ten (10) days\* after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only, such claim may be so treated as to the part not contested.

You are further hereby notified that unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county at which service may be made upon you, or the address of some solicitor in Ontario who may be served on your behalf, service may be made upon you of any notice, paper, or document, by mailing the same by registered post addressed to you at the said county town.

Dated the                      day of                      , 19     .

A. B.,  
Claimant.

\*NOTE.—If further time is given by a judge the notice should be varied accordingly.

R.S.O. 1927, c. 113, Form 3.

#### FORM 4.

(Section 8, Subsection 5.)

#### AFFIDAVIT OF SERVICE OF CLAIM.

#### THE CREDITORS RELIEF ACT.

In the County Court of the County of

A. B. .... Claimant.

and

C. D. .... Debtor.

I, G. H., of                      , in the County of                      , make oath and say:—

1. That I did, on the                      day of                      , 19     , personally serve C. D., the above named debtor (*or as the case may be*) with an original affidavit, identical with the annexed affidavit, and that there was at the time of such service, attached to (*or endorsed upon*) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (*or endorsed upon*) the said annexed affidavit.

Sworn before me at  
this                      day of  
19     .

}  
G. H.

A Commissioner, etc. (*or as the case may be*).

R.S.O. 1927, c. 113, Form 4.

FORM 5.

(Section 9, Subsection 1, and Section 17.)

CERTIFICATE OF PROOF OF CLAIM.

THE CREDITORS RELIEF ACT.

In the County Court of the County of  
A. B.....Claimant.  
and  
C. D.....Debtor.

I, \_\_\_\_\_ Clerk of the County Court of the  
County of \_\_\_\_\_, do hereby certify  
(1) That the above named claimant did on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, file with me a claim against the above  
named debtor, for the sum of \_\_\_\_\_ together with an  
affidavit of personal service thereof (or as the case may require) and of  
the notice required by *The Creditors Relief Act*, upon the said debtor,  
and that it thereby appears that such service was made on the  
day of \_\_\_\_\_, 19\_\_\_\_.  
(2) And I further certify that the debtor has not contested the said  
claim (or, has only contested the sum of \_\_\_\_\_ part of the said  
claim (as the case may be), and that the claimant having abandoned such  
part is entitled to the residue of his claim, being the sum of \_\_\_\_\_  
and the further sum of \_\_\_\_\_ for costs.) (Or when the claim  
is contested in whole or in part, (2) That the claim has been allowed by  
the judge at the sum of \$ \_\_\_\_\_, with \$ \_\_\_\_\_ for costs.)  
G. H.,  
Clerk.

R.S.O. 1927, c. 113, Form 5.

FORM 6.

(Section 30.)

SHERIFF'S STATEMENT OF EXECUTIONS, ETC., IN HIS HANDS AGAINST  
C. D.

CAUSE	Proceedings.	Claim without Costs.	Costs.	Date of Receipt by Sheriff.	Amount Levied or Received.	Date of Levy or Receipt.
A. B. v C. D.....	Fi. fa. goods and lands.	\$ 504	\$ 30	18th Feb., 19 .	\$ 500	1st May, 19 .
F. G. v C. D. & E. G. }	Fi. fa. goods and lands.	400	20	1st March, 19 .	300	3rd May, 19 . Nothing made against E.G.
K. L. v C.D.....	Garnishee order.....	500	30	.....	300	10th May, 19 .
M. N. v C. D....	Creditor's Certificate	400	5	15th May, 19 .		

R.S.O. 1927, c. 113, Form 6

## FORM 7.

(Section 32, Subsection 8.)

## NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION.

## THE CREDITORS RELIEF ACT.

In the County Court of the County of

A. B.....Claimant.

and

C. D.....Debtor.

To C. D., debtor, and F. G. and M. N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of \_\_\_\_\_ in respect of the claims of you, the said F. G. and M. N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated, etc.

X. Y.,  
Contestant.

R.S.O. 1927, c. 113, Form 7.



## CHAPTER 127.

## The Absconding Debtors Act.

1. In this Act "property" shall include credits and effects. Interpretation.  
R.S.O. 1927, c. 114, s. 1. "Property."

2.—(1) If a person resident in Ontario departs therefrom with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, being then possessed of any real or personal property therein not exempt by law from seizure under execution, he shall be deemed an absconding debtor, and such property may be seized and taken by an order of attachment for the satisfying of his debts. Who to be regarded as an absconding debtor.  
Order.

(2) The order shall not be made except in a pending action. When may be made.  
R.S.O. 1927, c. 114, s. 2.

## PROCEDURE TO OBTAIN ATTACHMENT.

3.—(1) Upon affidavit made by a plaintiff or his agent Affidavit that the defendant is indebted to the plaintiff in a sum exceeding \$100, stating the cause of action, and that the deponent has good reason to believe and does believe that such defendant has departed from Ontario and has gone to some place, stating it, to which he is believed to have fled, or that the deponent is unable to obtain any information as to the place to which he has gone, with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed to his own use and benefit of real or personal property in Ontario not exempt by law from seizure under execution, and upon the further affidavit of two other persons that they are well acquainted with such defendant and have good reason to believe and do believe that he has departed from Ontario with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, a judge of the Supreme Court or of a county court may make an order in the Supreme Court for the attachment of the property of such defendant. Order of attachment.

Cases within  
county court  
jurisdiction.

(2) Where the sum claimed is within the jurisdiction of the county court a judge thereof may in like manner make an order of attachment in that court. R.S.O. 1927, c. 114, s. 3.

Service of  
order.

4. A copy of the order shall be served upon the defendant. R.S.O. 1927, c. 114, s. 4.

Term of  
validity.

5. The order shall remain in force for six months. R.S.O. 1927, c. 114, s. 5.

Certified  
copies of  
order.

6. The plaintiff may at any time while the order is in force obtain from the proper officer one or more certified copies thereof, which may be delivered to any sheriff other than the sheriff to whom the original order was delivered, and he may thereunder attach the property of the defendant in his bailiwick. R.S.O. 1927, c. 114, s. 6.

#### WHAT PROPERTY MAY BE ATTACHED—INVENTORY, ETC.

Liability of  
property to  
attachment.

7. All the property of an absconding debtor liable to seizure under execution may be attached in the same manner as it might be seized under execution, and the sheriff to whom the order of attachment is directed shall forthwith take into his charge all such property, according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid shall make a just and true inventory of all the personal property, evidence of title or debts, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and such freeholders, together with the order. R.S.O. 1927, c. 114, s. 7.

Duty of  
sheriff.

(NOTE—*For property exempt from execution and attachment see The Execution Act, Rev. Stat. c. 125, and The Wages Act, Rev. Stat. c. 196.*)

#### PERISHABLE PROPERTY.

Sale of  
perishable  
goods on  
plaintiff  
giving  
security.

8.—(1) Where horses, cattle, sheep or pigs, or perishable property, or such as from its nature cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches the same shall have them appraised, on oath, by two competent persons, and, if the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders, approved as sufficient by the sheriff, in double the appraised value of the

property, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such property at public auction to the highest bidder, giving not less than six days' notice of the sale, unless any of the property is of such a nature as not to allow of that delay, in which case the sheriff may sell it forthwith, and the sheriff shall hold the proceeds for the same purposes as he would hold property seized under the order of attachment. Application of proceeds.

(2) If the plaintiff, after notice to him or to his solicitor of the seizure of any property mentioned in subsection 1, does not deposit such bond, then, after four days next after the notice, the sheriff shall be relieved from all liability to the plaintiff in respect to the property so seized, and the sheriff shall forthwith restore the same to the person from whose possession it was taken. Restoration. R.S.O. 1927, c. 114, s. 8.

#### WHEN DIVISION COURT ATTACHMENT SUPERSEDED.

9.—(1) Where the sheriff finds any property, or the proceeds of any property which has been sold as perishable, belonging to the defendant in the custody of a constable or of a bailiff or clerk of a division court under a warrant of attachment issued, or finds money paid into court under a garnishee summons under *The Division Courts Act*, the sheriff shall demand and be entitled to receive the same from the constable, bailiff or clerk, who, on demand and notice of the order of attachment, shall forthwith deliver the same to the sheriff, under the penalty of forfeiting double the value thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property of the defendant; but the creditor who has sued out the warrant of attachment or taken the garnishee proceedings in the division court may proceed to judgment, and on obtaining judgment, and serving a certificate of the amount thereof, and of the costs, under the hand of the clerk and the seal of the division court, shall be entitled to share in the distribution, if any, by the sheriff under *The Creditors Relief Act*. Proceedings if sheriff finds property in the hands of a bailiff or clerk of a division court. Rev. Stat., c. 107. Rights of division court creditor. Rev. Stat., c. 126.

(2) The costs and disbursements of such constable or bailiff shall be a first charge upon such property and proceeds and shall be paid by the sheriff upon demand after being taxed by the clerk of the division court. R.S.O. 1927, c. 114, s. 9. Costs of bailiff or constable.

## SHERIFF'S COSTS.

Sheriff's  
costs and  
how paid.

**10.** The costs of the sheriff for seizing and taking charge of property, under an order of attachment, including the sums paid to persons for assisting in taking an inventory, and for appraising shall be paid in the first instance by the plaintiff, and when paid shall be taxed to him as disbursements in the action. R.S.O. 1927, c. 114, s. 10.

Cost of  
inventory.

**11.** Where the sheriff has made an inventory and appraisement on the first order of attachment he shall not be required to make nor shall he be allowed for a new inventory and appraisement upon a subsequent order coming into his hands. R.S.O. 1927, c. 114, s. 11.

## RESTORATION OR SALE OF PROPERTY.

Restoration  
of goods to  
debtor on  
his giving  
security.

**12.**—(1) Where the defendant or any person on his behalf executes and files in the office from which the order of attachment, or the first order if there are more than one, was issued, a bond to the sheriff with at least two sufficient sureties approved by the proper officer in such office or by the local judge or master, binding the obligors jointly and severally in double the appraised value of the property attached, conditioned that the defendant (naming him) will whenever required by order of the court or a judge pay into court the appraised value of the property or so much thereof as will be sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property, or will produce and deliver to the sheriff the property attached, the court or a judge may direct that such property be restored to the debtor.

Proceedings  
on default.

(2) If, within one month after the property has been attached, such bond is not executed and filed the court or a judge may direct the sheriff to sell any of the goods and chattels which have been attached, except chattels real, upon such terms as to the court or judge may seem just. R.S.O. 1927, c. 114, s. 12.

## COSTS OF FIRST ATTACHMENT.

Costs of  
first  
attachment.

**13.** The costs of the first order of attachment and of the execution thereof shall have priority over all execution debts and other costs. R.S.O. 1927, c. 114, s. 13.

(NOTE—*As to sales of shares, etc., in companies, see sections 11 to 16 of The Execution Act, Rev. Stat. c. 125.*)



## ATTACHMENT OF DEBTS DUE TO ABSCONDING DEBTOR.

**14.**—(1) Where notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property of the defendant, and such person after such notice pays the debt or demand or delivers the property to the defendant or to any one for him, he shall be deemed to have done so fraudulently, and if the other property seized by the sheriff is insufficient to satisfy the claims of all creditors who are or become entitled to be paid out of the same or the proceeds thereof, such person shall be liable to the sheriff for the amount of the debt or demand so paid or for the property so delivered or the value thereof.

Liability of persons paying debts to absconding debtor after notice of attachment.

(2) The sheriff shall not be bound to sue until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount of the debt or of the value of the property sued for, conditioned to indemnify him from all costs, loss and expense which he may incur in the prosecution of the action or to which he may become liable in consequence thereof.

Duty of sheriff.

(3) If, after the notice mentioned in subsection 1, a person indebted to the defendant, or having the custody or possession of any of his property, is sued for the debt, demand or property by the defendant, or by the person to whom he has assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to the court or a judge to stay proceedings in the action until it is known whether the other property seized by the sheriff is sufficient to satisfy the claims mentioned in subsection 1, and the court or judge may direct an issue to try any disputed question of fact or make such other order as may seem just. R.S.O. 1927, c. 114, s. 14.

Stay of proceedings taken by absconding debtor.

**15.** If the other property of the defendant proves insufficient to satisfy the executions against him and the claims certified under *The Creditors Relief Act*, and there remain debts due to the defendant, the attempt to collect which would be less beneficial to his creditors than a sale thereof, the sheriff may, by leave of the court or a judge, sell such debts by public auction after such advertisement as the court or judge may direct and, pending such advertisement, the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents

Sale of debts by sheriff.

Rev. Stat., c. 126.

and vouchers explanatory of such debts; but every debt amounting to more than \$100 shall be sold separately, unless the court or judge shall otherwise direct. R.S.O. 1927, c. 114, s. 15.

(NOTE—See Section 5 of *The Creditors Relief Act*, Rev. Stat., c. 126.)

Right of  
purchaser  
to sue.

**16.**—(1) The person who purchases a debt from the sheriff may sue for it in his own name, and a bill of sale (Form 1) executed by the sheriff, shall be *prima facie* evidence of such purchase and of the sheriff's authority to sell without proof of the handwriting of the sheriff, or of the execution or order, or of the sale.

What  
defence  
may be  
set up.

(2) In an action by the purchaser the defendant may set up any defence which would have availed him against the absconding debtor at the date of the order of attachment. R.S.O. 1927, c. 114, s. 16.

#### PROCEEDINGS UNDER CREDITORS RELIEF ACT.

Option of  
proceeding  
under  
Rev. Stat.,  
c. 126.

**17.** Where the plaintiff desires to avail himself of the provisions of *The Creditors Relief Act* he may, instead of proceeding with his action, obtain a certificate, and in that case, may add the costs incurred in the action to the amount of his claim, unless the court or a judge otherwise orders. R.S.O. 1927, c. 114, s. 17.

#### DELIVERY UP OF PROPERTY.

Sheriff's  
duty and  
end of his  
responsibil-  
ity.

**18.** Where an order of attachment has been made but no execution at the suit of any creditor against the property of the debtor is placed in the sheriff's hands for execution within three months thereafter or within such further time as the court or judge may direct, all the property of the absconding debtor, or unappropriated money the proceeds of any part of such property remaining in the sheriff's hands, together with all books of account, evidences of title, or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to his authorized agent, or to the person in whose custody the same were found, or, if taken or received under section 9, to the constable, bailiff or clerk from whom the same were taken or received, upon being repaid the amount, if any, which the sheriff may have paid under the provisions of subsection 2 of section 9, and thereupon the responsibility of the sheriff in respect thereto

shall determine, or, if a bond has been given under the provisions of section 12, the bond shall be delivered up to be cancelled. R.S.O. 1927, c. 114, s. 18.

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## FORM 1.

## BILL OF SALE OF A DEBT.

(Section 16.)

In consideration of \$ \_\_\_\_\_, the receipt whereof I hereby acknowledge:

I, *A. B.*, Sheriff of the County of \_\_\_\_\_, under and by virtue of an order of attachment dated \_\_\_\_\_, issued under *The Absconding Debtors Act*, against the real and personal property of *C. D.*, an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E. F.*, all claim by the said *C. D.*, against *G. H.*, of (*describing the debtor*), with the evidences of debt and the securities there-to appertaining.

Witness my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_  
*A. B.*,

Sheriff of the County of \_\_\_\_\_

R.S.O. 1927, c. 114, Form 1.

## CHAPTER 128.

## The Fraudulent Debtors Arrest Act.

Interpreta-  
tion.

1. In this Act,—

“County.”

(a) “County” shall include district;

“County  
court.”

(b) “County court” shall include district court;

“Sheriff.”

(c) “Sheriff” shall include any officer to whom an order for arrest is delivered for execution. R.S.O. 1927, c. 115, s. 1.

## ORDER FOR ARREST.

When order  
for arrest of  
debtor may  
be made.

2.—(1) Where a person by affidavit of himself or some other person shows to the satisfaction of a judge of the Supreme Court or of a county court that he has a cause of action against a person liable to arrest to the amount of not less than \$100, and also such facts and circumstances as satisfy the judge that there is a good and probable cause for believing that such person unless he be forthwith apprehended is about to quit Ontario with intent to defraud his creditors generally or the applicant in particular, the judge may order that the person against whom the application is made shall be arrested and shall give security for such sum as the judge thinks fit.

Powers of  
county court  
judge.

(2) A judge of a county court may make an order for arrest in the Supreme Court as well as in his own court.

Order before  
action.

(3) The order may be made as well before as after an action has been commenced.

When action  
to be  
brought.

(4) Where the order is made before action, unless an action is commenced and notice thereof is given to the sheriff within two days after the date of the order or within such further time as the judge may by the order allow, the order shall be superseded and the person against whom it was made shall, if under arrest, be entitled to be discharged out of custody. R.S.O. 1927, c. 115, s. 2.



**3.** An order for arrest shall be in force for two months from the date thereof and no longer; but on the expiration thereof a new order may be obtained in the manner provided by this Act. R.S.O. 1927, c. 115, s. 3. Term of validity.

**4.—(1)** Every order of the Supreme Court and of a county court directing payment of money or of costs, charges or expenses, so far as it relates thereto, shall be deemed a judgment, and the person to receive payment a creditor, and the person to make payment a debtor, within the meaning of this Act. Effect of orders for payment.

**(2)** Where the judgment or order directs the payment of money into Court, or otherwise than to any person, the person having the carriage of the judgment or order, so far as relates to the payment, shall be deemed the person to receive payment or the plaintiff, as the case may be, within the meaning of this Act. R.S.O. 1927, c. 115, s. 4. Who to be deemed the plaintiff, etc.

**5.** Where an order for arrest is made in an action for alimony the amount for which security is to be given shall not exceed what may be considered sufficient to cover the amount of future alimony for two years, besides arrears and costs, but may be for less, at the discretion of the judge. R.S.O. 1927, c. 115, s. 5. Limit of security for alimony.

**6.** Concurrent or duplicate orders may be issued from time to time in like manner and form as the original order, and shall be in force for the same period as the original order and no longer. R.S.O. 1927, c. 115, s. 6. Concurrent order for arrest.

**7.** Unless otherwise ordered the costs of and incidental to an order for arrest shall be costs in the cause. R.S.O. 1927, c. 115, s. 7. Costs.

**8.** The order and as many copies thereof as there are persons intended to be arrested thereon shall be delivered to the sheriff, and the plaintiff or his solicitor may direct the sheriff to arrest one or more of the persons there named, which direction shall be obeyed by the sheriff. R.S.O. 1927, c. 115, s. 8. Order and copies to be delivered to sheriff.

#### ARREST OF DEFENDANT.

**9.** The sheriff shall, within two months from the date of the order, but not afterwards, execute the same according to the exigency thereof, and shall upon or immediately after the execution of the same cause one copy thereof to be delivered to the person whom he is directed to arrest, and shall exhibit the original order to him. R.S.O. 1927, c. 115, s. 9. Time within which arrests to be made.

Indorsement  
of date.

**10.** The sheriff shall, within two days after the arrest, indorse on the order the true date of the arrest. R.S.O. 1927, c. 115, s. 10.

Privileged  
persons.

**11.** No person shall be subject to arrest who, by reason of any privilege, usage or otherwise, is by law exempt therefrom. R.S.O. 1927, c. 115, s. 11.

Arrest for  
non-pay-  
ment of  
money,  
costs, etc.,  
abolished.

**12.** No person shall be liable to arrest for contempt for non-payment of any sum of money or of any costs, charges or expenses payable by a judgment or order of the Supreme Court or of a judge thereof, or of a county court or of a judge thereof, and no person shall be liable to arrest for non-payment of costs. R.S.O. 1927, c. 115, s. 12.

No married  
woman to be  
arrested.

**13.** A married woman shall not be liable to arrest on mesne or final process. R.S.O. 1927, c. 115, s. 13.

#### SECURITY IN THE ACTION.

Security by  
defendant in  
action.

**14.** The security in the action to be given by the defendant pursuant to the order for arrest, may be by payment into court of the amount mentioned in the order, or by a bond to the plaintiff by the defendant and two sufficient sureties, or, with the leave of the judge or officer who allows the bond, either one surety or more than two, or, with the plaintiff's consent, by any other form of security. R.S.O. 1927, c. 115, s. 14.

Condition of  
bond.

**15.** Where the security is given by bond the condition shall be that the defendant will pay the amount by any judgment in the action adjudged to be recovered or directed to be paid, either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced or that the sureties will do so for him. R.S.O. 1927, c. 115, s. 15.

Persons  
ineligible as  
sureties.

**16.** A person who has been indemnified for so doing by a solicitor concerned for the defendant shall not be a surety in such bond. R.S.O. 1927, c. 115, s. 16.

Justification  
when claim  
over \$4,000.

**17.** Where the plaintiff's claim exceeds \$4,000 it shall be sufficient for each surety to justify in \$4,000 beyond the amount of the claim. R.S.O. 1927, c. 115, s. 17.

Allowance  
of bond.

**18.** The bond shall be filed in the office in which the action was commenced, and may be allowed by the proper officer in

such office or by the local judge or master upon service upon the plaintiff or his solicitor of notice of the filing of the bond and of the names and addresses of the sureties and a copy of an appointment from such officer, local judge, or master at least forty-eight hours, unless otherwise directed by the officer, judge or master, before the time named in the appointment. R.S.O. 1927, c. 115, s. 18.

**19.**—(1) Where security is desired to be given by payment of money into court the same may be paid in without an order, and shall stand as security to the plaintiff that the defendant will pay the amount by the judgment in the action adjudged to be recovered or directed to be paid either as a debt or for damages or costs, or will render himself to the custody of the sheriff of the county in which the action has been commenced.

Security by  
payment  
into court.

(2) After the payment of money into court, a bond or other security in section 14 mentioned may be substituted therefor, and the money paid in shall be repaid upon the production of a certificate of the allowance of the bond or other security signed by the officer allowing the same or by the plaintiff's solicitor. R.S.O. 1927, c. 115, s. 19.

Substitution  
of other  
security  
after pay-  
ment into  
court.

Repayment  
of money  
paid in.

**20.**—(1) The money paid in and the security, and all proceedings thereon shall be subject to the order and control of the court or a judge.

Control of  
court.

(2) The delivery to the sheriff executing the order for arrest of a certificate of the accountant of the Supreme Court of the payment of the money into court, or of a certificate of the allowance of the bond or other security signed by the officer allowing the same, or by the plaintiff or his solicitor, to the sheriff, shall entitle the defendant to be discharged out of custody. R.S.O. 1927, c. 115, s. 20.

Discharge of  
defendant on  
giving  
security.

#### DELIVERY OF STATEMENT OF CLAIM IN ACTION.

**21.** Where a defendant is taken or detained in custody under an order for arrest in default of giving security, the plaintiff, if he has not already delivered his statement of claim, shall deliver the same within one month after the arrest, or within the time prescribed by the rules of the Supreme Court, whichever shall be the earlier date, otherwise the defendant shall, unless further time is allowed by the court or a judge, be entitled to be discharged out of custody. R.S.O. 1927, c. 115, s. 21.

Time for  
delivery of  
statement of  
claim.

## ORDER TO BRING IN THE BODY.

Order to  
bring body  
into court.

**22.**—(1) Where, on the expiration of an order to return an order for arrest, the sheriff returns *cepi corpus* thereon, an order may thereupon issue requiring the sheriff, within six days after the service of the order, to bring the defendant into court, by bringing in the body or by causing security in the action to be given and, if the sheriff does not obey the order, an attachment may be granted for disobedience thereto.

Attachment  
for disobey-  
ing order.

Where sheriff  
goes out of  
office.

(2) Where a sheriff, before going out of office, makes an arrest, and takes security under the order for arrest and makes a return of *cepi corpus*, the order shall and may, within the time allowed by law, be directed to him notwithstanding that he may be out of office before the order is issued. R.S.O. 1927, c. 115, s. 22.

Order to set  
aside attach-  
ment or stay  
proceedings  
on bond—  
affidavit of  
merits, etc.

**23.** An order shall not be made for setting aside an attachment regularly obtained against a sheriff for not bringing in the body, or for staying proceedings regularly commenced on the assignment of a bail bond, unless the application for the order, if made on the part of the original defendant, be grounded on an affidavit of merits, or, if made on the part of the sheriff, or a surety, or any officer of the sheriff, unless the application be grounded on an affidavit showing that the application is really and truly made on the part of the sheriff, or surety, or officer of the sheriff, as the case may be, at his own or their own expense, and for his or their indemnity only, and without collusion with the original defendant. R.S.O. 1927, c. 115, s. 23.

## APPLICATION FOR DISCHARGE FROM CUSTODY.

Application  
for discharge  
from custody  
by defend-  
ant.

**24.**—(1) A person arrested upon an order for arrest may apply to the court or a judge for an order that he be discharged out of custody, and the court or judge, subject to appeal, may make such order thereon as may seem just.

Powers of  
county court  
judge.

(2) A judge of a county court making an order for arrest, whether in the Supreme Court or in his own court, shall, in respect to such order and the arrest made thereupon, possess all the powers of a judge of the Supreme Court under this section, and may in like manner, on application to him, order the defendant to be discharged out of custody, or make such order therein as to him seems just.

Discharge  
or variance  
of order.

(3) Any such order made by a judge of the county court may be discharged or varied by the Court of Appeal. R.S.O. 1927, c. 115, s. 24.



**25.** Where the defendant is described in the order for arrest, or affidavit therefor, by initials, or by wrong name, or without a Christian name, he shall not for that cause be discharged out of custody, or the security be delivered up to be cancelled. R.S.O. 1927, c. 115, s. 25.

Misnomer of defendant in order for arrest.

#### SURRENDER BY SURETIES.

**26.**—(1) The sureties may at any time surrender their principal to the sheriff of the county in which the principal is resident or found, and the sheriff shall receive the principal into his custody, and give the sureties a certificate under his hand and seal of office of the surrender, for which certificate he shall be entitled to the sum of \$1.

Surrender of debtor by sureties.

(2) A judge of the court in which the action is pending, upon proof of due notice to the plaintiff or his solicitor of the surrender, and upon production of the sheriff's certificate thereof, shall order the security to be cancelled, and thereupon all sureties shall be discharged.

Order to cancel security and discharge of sureties.

(3) Where a person is surrendered by his sureties to the sheriff of any county other than that in which he resides or carries on business he shall be entitled to be transferred to the gaol of his own county on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly; but, if the sheriff declines to act without an order of the court or a judge, such order may be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1927, c. 115, s. 26.

Transfer of person arrested out of his county.

#### WRITS OF CAPIAS AD SATISFACIENDUM.

**27.**—(1) Where a defendant has been arrested and has given security in the action pursuant to the order for arrest, or is imprisoned or detained in custody in default of giving security, unless he has been discharged under the provisions of section 52, any judgment which the plaintiff may obtain in the action may be enforced by writ of *capias ad satisfaciendum* without an order therefor; but where the defendant is so imprisoned or detained in custody the plaintiff shall issue such writ within fourteen days after he has become entitled to enter final judgment.

When *ca. sa.* may issue without order.

(2) Where the defendant has not been arrested, or has been discharged under the provisions of section 52, if the plaintiff, by the affidavit of himself or of some other person shows to the satisfaction of a judge of the Supreme Court or,

When order for *ca. sa.* necessary.

where the action is in a county court, to a judge of such court, that he has recovered judgment against the defendant for not less than \$100, exclusive of costs, and also such facts and circumstances as satisfy the judge that there is good and probable cause for believing either that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular, or that the defendant has parted with his property or made some secret or fraudulent conveyance thereof in order to prevent its being taken in execution, the judge may order that a writ of *capias ad satisfaciendum* be issued.

*Ca. sa.* when returnable.

(3) Every writ of *capias ad satisfaciendum* against a debtor who has not been previously arrested or who has not given security pursuant to an order for arrest shall be returnable immediately after the execution thereof, and shall continue in force for two months from the day of the issue thereof, and no longer, but on the expiration thereof another writ may be obtained from a judge's order as provided by subsection 2. R.S.O. 1927, c. 115, s. 27.

*Ca. sa.* to fix liability of sureties.

When returnable.

**28.**—(1) A writ of *capias ad satisfaciendum*, issued for the purpose of fixing the liability of the sureties, shall be returnable on a day certain to be named therein not later than fourteen days from the date of the teste of the writ, and shall be delivered to the sheriff of the county in which the action was commenced eight clear days before the return day so named.

Duty of sureties.

(2) The sureties shall take notice of the delivery of the writ, and it shall not be necessary for the plaintiff to give them any further or other notice thereof. R.S.O. 1927, c. 115, s. 28.

Postponement of action on security.

**29.**—(1) An action shall not be brought upon the bond or other security given in an action pursuant to an order for arrest until after the return of a writ of *capias ad satisfaciendum* for the purpose of fixing the liability of the sureties.

Return to writ.

(2) To such a writ the sheriff may return *non est inventus*, without taking any steps to arrest the defendant, unless he is already in, or is rendered into, his custody. R.S.O. 1927, c. 115, s. 29.

Limitation of liability of sureties.

**30.** In an action upon the bond the sureties shall only be liable for the amount recovered by the plaintiff in the action in which the bond was given, and the costs of suit, not exceeding in the whole the amount of the penalty in the bond. R.S.O. 1927, c. 115, s. 30.

**31.**—(1) Subject to section 26, where the plaintiff brings an action on the bond or other security, the sureties shall be at liberty to satisfy the bond or security by rendering their principal to the custody of the sheriff of the county in which the action was brought at any time within eight days next after service of the writ of summons upon them, but not at any later period, and, upon notice thereof being given to the plaintiff or his solicitor, the action shall be stayed and the plaintiff shall be entitled to the costs of the action up to the date of service of the notice.

Sureties' right to surrender their principal.

Stay on surrender.

(2) Such costs may be taxed upon production of the notice so served without an order, and if not paid within four days from taxation the plaintiff may, without an order, sign judgment therefor. R.S.O. 1927, c. 115, s. 31.

Costs.

#### PRIVILEGE OF DEFENDANT AS TO COMMITMENT TO GAOL.

**32.** The sheriff, at the request of the person arrested, and upon being prepaid a sum of money sufficient to cover the sheriff's reasonable fees and expenses incident to the delay, shall grant to such person a delay of twenty-four hours after the arrest before committing him to gaol, and shall take him for the said twenty-four hours to some safe and convenient house in his county. R.S.O. 1927. c. 115, s. 32.

Delay of 24 hours before committal.

**33.** A person arrested and imprisoned in any other county than that in which he resides or carries on business, shall be entitled to be transferred to the gaol of his own county, on prepaying the expenses of his removal, and the sheriff in whose county he was arrested may transfer him accordingly; but if the sheriff declines to act without an order of the court or a judge, such order shall be made on the application of the person arrested, upon notice to the opposite party. R.S.O. 1927, c. 115, s. 33.

Right of person arrested to be transferred to gaol of his own county.

#### SECURITY FROM DEBTORS IN CUSTODY.

**34.**—(1) At any time before the expiration of ten days from the date of the arrest the defendant shall be entitled to be released from custody upon paying into court, without special order, the amount named in the order for arrest, together with \$40, to answer the costs which may have accrued up to the time limited for giving security in the action pursuant to the order for arrest, or upon giving to the sheriff a bail bond, with two sufficient sureties in a penal sum double the amount named in the order for arrest, and upon payment of the sheriff's fees, including the cost of the bond.

How defendant may be released.

Payment into court.

Bail bond.

Custody of  
money paid.

(2) Money so paid into court shall remain in court subject to order of the court or a judge, as security to the plaintiff that the defendant will cause security in the action to be given pursuant to the order for arrest. R.S.O. 1927, c. 115, s. 34.

Security  
from  
debtors in  
custody.

**35.** The sheriff may take from a debtor confined in the gaol of his county upon mesne process a bond, with not less than two nor more than four sufficient sureties, to be jointly and severally bound in a penal sum of double the amount for which the debtor is so confined, conditioned that the debtor will observe and obey all notices or orders of court touching or concerning the debtor, or his appearing to be examined *viva voce*, or his returning and being remanded into close custody, and that upon reasonable notice to them or any of them requiring them so to do they will produce the debtor to the sheriff, and also the debtor will, within thirty days, cause the bond, or the bond that may be substituted for the same according to the provisions hereinafter contained, to be allowed by the judge of the county court of the county wherein the debtor is confined, and the allowance to be endorsed thereon by the judge. R.S.O. 1927, c. 115, s. 35.

Affidavits of  
sufficiency.

**36.** The sheriff may also require each surety, where there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder on some part of Ontario (stating where), and is worth the sum for which the debtor is in custody (naming it) and \$200 more, over and above what will pay all his debts, or, where there are more than two sureties, then he may require each surety to make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one-half the sum for which the debtor is in custody (naming it), and \$200 more, over and above what will pay all his debts. R.S.O. 1927, c. 115, s. 36.

When sheriff  
may allow  
the debtor  
out of close  
custody.

**37.** Upon receipt of the bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of sufficiency, if required by the sheriff, the sheriff may permit and allow the debtor to go out of close custody, and so long as the debtor in all respects observes the conditions of the bond, the sheriff shall not be liable to the party at whose suit the debtor is confined in any action for the escape of the debtor from gaol. R.S.O. 1927, c. 115, s. 37.

Application  
for allowance  
of bond.

**38.**—(1) The debtor may apply for the allowance of the bond upon four clear days' notice in writing to the plaintiff or his solicitor, who at the time of the application may object to the sufficiency of the sureties, and if the judge refuses to



allow the bond, the debtor may cause another bond, made to the sheriff in the same terms and under the same conditions, to be executed without further application to the sheriff, and may apply in like manner and upon like notice for the allowance thereof, and the bond, if allowed and endorsed as aforesaid, shall be substituted for and have the like effect in all respects as the bond first given to the sheriff would have had upon the allowance thereof and the like remedies may be had thereon, and the first given bond shall thereupon become void.

(2) The sheriff shall, upon reasonable notice given by the debtor, cause the bond to be produced before the judge. Production of bond before judge.  
R.S.O. 1927, c. 115, s. 38.

**39.** Upon the allowance being so indorsed the sheriff shall be discharged from all responsibility respecting the debtor, unless he is again committed to the close custody of the sheriff in due form of law. Sheriff's discharge from responsibility. R.S.O. 1927, c. 115, s. 39.

**40.** In lieu of giving the bond provided for by section 35 the debtor or any person on his behalf may deposit with the sheriff the amount for which he is arrested, and, where the person is held under an order for arrest, the further sum of \$40, and such deposit shall stand as security in place and for the purposes of the bond provided for by sections 34 and 35, and the money so deposited shall be subject to the order of a judge of the court in which the order of arrest was made, but such deposit shall be repayable to the person making it upon the sheriff being furnished with a certificate of the judge or officer who allows the same, that the bond provided for by sections 34 and 35 has been perfected and allowed. Deposit in lieu of bail on arrest under civil process.  
R.S.O. 1927, c. 115, s. 40.

**41.**—(1) Where the sheriff has good reason to apprehend that a surety after entering into the bond has become insufficient to pay the amount sworn to in his affidavit of sufficiency the sheriff may again arrest the debtor, and detain him in close custody, and such arrest shall discharge the sureties from all liability on the bond. Retaking the debtor if sureties become insufficient.

(2) The sureties of the debtor may set up the arrest and detention as a defence to an action brought against them upon the bond entered into by them, and the defence, if sustained in proof, shall wholly discharge them. Effect of such arrest on liability of sureties.

(3) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. New bond. R.S.O. 1927, c. 115, s. 41.

Assignment  
of bail bond.

**42.**—(1) Where default is made in compliance with the conditions of a bail bond to the sheriff the sheriff shall, upon the request and at the cost of the plaintiff, assign the bond to him, and he may bring an action thereon in his own name.

Discharge of  
sheriff's  
liability.

(2) Upon executing the assignment the sheriff shall thenceforth be discharged from all liability on account of the debtor or his safe custody.

Rearrest on  
default of  
sheriff's  
action.

(3) Where the bond is taken under the provisions of section 34, if the plaintiff does not take an assignment of it within five days after default, the sheriff may rearrest the defendant in any county and bring him into his own county and detain him in custody until he has given and obtained the allowance of security in the action pursuant to the order for arrest. R.S.O. 1927, c. 115, s. 42.

Defendant's  
right to give  
security  
preserved.

**43.** Notwithstanding the default the defendant may, at any time before judgment in an action brought upon the bail bond to the sheriff or before the expiration of any order to bring in the body, give security in the original action pursuant to the order for arrest. R.S.O. 1927, c. 115, s. 43.

Stay of  
action on  
bail bond.

**44.** The plaintiff shall not be at liberty to proceed upon the bail bond to the sheriff pending an order to bring in the body of the defendant. R.S.O. 1927, c. 115, s. 44.

Power of  
court to  
relieve.

**45.** Where an action is brought upon the bail bond to the sheriff the court or a judge may upon application in such action give such relief to the plaintiff and defendant in the original action and to the sureties in the bail bond as may be just and reasonable, and the order made on any such application shall have the effect of a defeasance to the bail bond. R.S.O. 1927, c. 115, s. 45.

Surrender  
by sureties.

**46.**—(1) The sureties of a debtor may surrender him into the custody of the sheriff at the gaol, and the sheriff or gaoler shall there receive him into custody, and the sureties may set up the surrender, or the offer to surrender and the refusal of the sheriff or gaoler to receive the debtor into custody at the gaol, as a defence to any action brought on the bond for a breach of the condition happening after such surrender or tender and refusal, and the defence, if sustained in proof, shall discharge them.

New bond.

(2) The debtor may again be allowed to go out of close custody on giving to the sheriff a new bond with sureties as aforesaid. R.S.O. 1927, c. 115, s. 46.

**47.**—(1) The party at whose suit a debtor has been confined in execution may, at any time while the debtor is at large upon bail, apply to the court or a judge for an order for the examination *viva voce* on oath of the debtor, touching the matters mentioned in section 51, and if the debtor does not submit himself to be examined pursuant to the order, or refuses to make full answer in respect to the matters touching which he is examined, to the satisfaction of the court or a judge, the court or judge may order the debtor to be committed to close custody, and the sheriff, on due notice of the order, shall forthwith take the debtor and commit him to close custody until he obtains an order of the court or a judge for again allowing him to go out of close custody, on giving the necessary bond as aforesaid, or until he is otherwise discharged in due course of law.

Debtor on bail liable to be examined,

or to be re-committed.

(2) An order for the discharge of the debtor may be made on his showing that he has submitted himself to be examined and made full answer as aforesaid and has thereafter given to the plaintiff or his solicitors five days' notice of his intention to apply. R.S.O. 1927, c. 115, s. 47.

Order for discharge.

**48.**—(1) Where a union of counties is dissolved or a county is separated from a union of counties a person arrested, or who has given security in the action before the separation or dissolution and is liable to be imprisoned, shall be imprisoned in the gaol of the county in which he was arrested.

Proceedings under bail-able process in case of dissolution of a union of counties.

(2) All proceedings in the action, and all proceedings after judgment founded on the arrest or the security given, shall be carried on as if the arrest had taken place or the security had been given in such county as a separate county, and all the records and papers relating to the action shall be transmitted to the proper officer of the county in which the debtor was arrested.

Further proceedings, where to be carried on.

(3) Where a debtor or other person is admitted to bail in a union of counties, and the union is afterwards dissolved, or one or more counties are separated therefrom, and such person is afterwards surrendered or ordered to be committed to close custody, he shall be surrendered or committed to the sheriff of the county in which he was arrested, and be imprisoned in the gaol thereof. R.S.O. 1927, c. 115, s. 48.

Gaol for debtor where united counties dissolved.

#### LIABILITY OF SHERIFF FOR ESCAPE.

**49.** If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor, shall be liable only to an action for damages sustained

Extent of sheriff's liability.

by the person at whose suit the debtor was taken or imprisoned, and shall not be liable to any other action in consequence of the escape. R.S.O. 1927, c. 115, s. 49.

#### DISCHARGE OF DEBTOR FROM CUSTODY.

A debtor in custody in execution may apply to be discharged.

**50.** A debtor in close custody in execution or on mesne process, and a debtor arrested under a writ of *capias ad satisfaciendum*, though he is not in close custody but has given bail, may, after giving to the person at whose instance he is in close custody or has been so arrested ten days' notice in writing of his intention to do so, apply to the court or a judge to be discharged. R.S.O. 1927, c. 115, s. 50.

Examination of debtor as to his property, etc.

**51.** Where the notice is given by a debtor in close custody in execution or by a debtor who has been arrested under a writ of *capias ad satisfaciendum* and has given bail, the person at whose instance he is in close custody or has been so arrested may apply to the court or a judge for an order that the debtor be examined *viva voce* on oath for the purpose of discovering any property or effects which he is possessed of or entitled to, or which are in the possession or under the control of any other person for the use or benefit of the debtor, or which the debtor having been in possession of may have fraudulently disposed of for the purpose of hindering, delaying, defrauding or defeating his creditors, and touching the debtor's estate and effects and the circumstances under which he contracted the debt or incurred the liability which was the subject of the action in which judgment has been recovered against him, and as to the means and expectations he then had, and as to the property and means he still has, and as to the disposal he may have made of any of his property. R.S.O. 1927, s. 115, s. 51.

Application of debtor for discharge.

**52.**—(1) Upon an application under section 50, and upon the debtor making oath that he is not worth \$20 exclusive of his goods and chattels exempt from seizure under execution, and, in the case of a debtor in execution, that he has submitted himself to be examined pursuant to any order which may have been made for his examination, or that no order for his examination has been served, and where such examination has been had, if the matter thereof is deemed satisfactory, and, in the case of a debtor confined in close custody on mesne process, that he does not believe the demand of the plaintiff to be just and for that reason and no other resists payment of it and refuses to suffer judgment to be entered against him for the sum sworn to, and if the cross examination, if any, of the debtor upon his affidavit is deemed satisfactory, the debtor shall be discharged from custody, but the



discharge shall not be a release or satisfaction of the judgment or of the claim of the plaintiff or deprive the plaintiff of any remedy against the debtor or his property.

(2) A debtor in close study upon mesne process may be cross examined upon his affidavit according to the practice of the court as to cross examination upon an affidavit on a motion. R.S.O. 1927, c. 115, s. 52.

**53.** In the case of a debtor in execution it may be made a condition of his discharge that he shall first, by assignment or conveyance to be approved of by the court or a judge, assign and convey to an assignee for the benefit of his creditors any right or interest he may have in and to any property real or personal, credits or effects, other than goods and chattels exempt from seizure under execution, and in the case of a debtor in close custody on mesne process it may be made a condition of his discharge that he shall first suffer the plaintiff to have judgment against him for the sum sworn to or such part thereof as to the court or judge may seem just. R.S.O. 1927, c. 115, s. 53.

**54.** In the case of a debtor in execution, if it appears that the debt for which he is in close custody or has been arrested was contracted by fraud, or breach of trust, or under false pretences, or that he wilfully contracted the debt without having had at the time a reasonable expectation of being able to pay or discharge it and with intent to defraud, the court or judge may order the debtor to be remanded into close custody for any period not exceeding twelve months and to be then discharged. R.S.O. 1927, c. 115, s. 54.

**55.** Where the discharge has been unduly or fraudulently obtained by a false allegation of circumstances which, if true, would have entitled the debtor to be discharged, he shall, upon the same being made to appear to the satisfaction of the court or a judge, be liable to be again taken in execution or remanded to his former custody by order of the court or judge. R.S.O. 1927, c. 115, s. 55.

**56.** The court or judge making an order for the examination of a debtor under this Act may direct the sheriff or gaoler having the custody of the debtor, to bring him before the court or judge or before some person to be named in the order for the purpose of being examined, and the sheriff or gaoler shall take the debtor before the court or judge or the person so named for examination in the same manner as if the sheriff or gaoler were acting in obedience to a writ of *habeas corpus ad testificandum*. R.S.O. 1927, c. 115, s. 56.

Discharge  
by consent  
of plaintiff.

**57.** A written order under the hand of the judgment creditor or of the solicitor by whom a writ of *capias ad satisfaciendum* has been issued, shall justify the sheriff, gaoler or officer in whose custody the debtor is under the writ, in discharging him, unless, where the order is given by the solicitor, the party for whom such solicitor professes to act has given written notice to the contrary to the sheriff, gaoler or officer; but such discharge shall not be a satisfaction of the debt, and nothing herein contained shall justify the solicitor in giving an order for discharge without the consent of his client. R.S.O. 1927, c. 115, s. 57.

#### SAVING OF REMEDIES UNDER OTHER WRITS OF EXECUTION.

When  
plaintiff may  
issue other  
writs.

**58.** Neither the taking of a debtor in execution under a writ of *capias ad satisfaciendum* nor his imprisonment thereunder or under the provisions of this Act nor his discharge from custody, by the voluntary action of his creditor or under the powers conferred by this Act, shall operate as a satisfaction or extinguishment of the debt or deprive the creditor of the right to take out execution or other process against the property of the debtor or to take any other proceeding against him in the same manner as if the debtor had not been taken in execution or discharged out of custody. R.S.O. 1927, c. 115, s. 58.

#### APPLICATION OF JUDICATURE ACT AND RULES.

Application  
of Rev.  
Stat., c. 100.

**59.** *The Judicature Act* and rules of court shall apply to this Act. R.S.O. 1927, c. 115, s. 59.

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## CHAPTER 129.

## The Habeas Corpus Act.

1.—(1) Where a person, other than a person imprisoned for debt, or by process in any action, or by the judgment, conviction or order of the Supreme Court, court of general sessions of the peace or other court of record is confined or restrained of his liberty, a judge of the Supreme Court, upon complaint made by or on behalf of the person so confined or restrained, if it appears by affidavit that there is reasonable and probable ground for the complaint, shall award a writ of *habeas corpus ad subjiciendum* directed to the person in whose custody or power the person so confined or restrained is, returnable immediately before the judge so awarding the same, or before any judge of the Supreme Court or before the Court of Appeal.

In what cases *hab. corp. ad subjiciendum* may be awarded, and by whom.

(2) Instead of awarding the writ the judge before whom the application is made may direct that the motion for the writ be adjourned to be heard before the Court of Appeal.

Order adjourning motion for writ.

R.S.O. 1927, c. 116, s. 1.

2. The writ may be served either personally by actual delivery thereof to the person to whom the same is directed or by leaving it with his servant or agent at the place where the person is so confined or restrained. R.S.O. 1927, c. 116, s. 2.

Service of writ.

3. If the person to whom the writ is directed wilfully neglects or refuses to make a return or pay obedience thereto he shall be deemed guilty of contempt of court, and the court or judge, upon proof by affidavit of such wilful neglect, refusal or disobedience, may issue a warrant for apprehending and bringing him before the court or judge to the end that he may be bound to His Majesty with two sufficient sureties in such sum as in the warrant is expressed, conditioned that he will appear on the day named in the warrant to answer the matter of the contempt. R.S.O. 1927, c. 116, s. 3.

Disobedience.

Warrant for contempt.

4. In case of neglect or refusal to become bound as aforesaid the court or judge may commit such person to the common gaol of the county wherein he resides or may be found,

Committal.

there to remain until he becomes bound as aforesaid, or is discharged by order of the court or a judge, and if he becomes bound the recognizance shall be returned and filed and shall continue in force until the matter of the contempt has been heard and determined, unless sooner ordered by the court to be discharged. R.S.O. 1927, c. 116, s. 4.

Issue of writ of *certiorari*.

5. Where a writ of *habeas corpus* is issued under the authority of this Act or otherwise, the court or judge may direct the issue of a writ of *certiorari* directed to the person by whom or by whose authority any person is confined or restrained of his liberty, or other person having his custody or control, requiring him to certify and return to the court or judge as by the writ may be provided, all the evidence, depositions, conviction and all proceedings had or taken, touching or concerning such confinement or restraint of liberty. R.S.O. 1927, c. 116, s. 5.

Procedure on return of writ.

6. When upon a return to a writ of *habeas corpus* it is alleged that the person is detained by reason of a conviction or order other than a conviction or order of the Supreme Court or other court of record upon the return of the writ of *certiorari*, it shall be the duty of the court or judge to examine and consider the proceedings had and taken to ascertain if the proceedings show that the person restrained has been convicted of any offence against the law and that there is any evidence to sustain the conviction, or that upon the evidence the person accused is guilty of an offence against the law and that the conviction, though irregular, ought to be amended or drawn so as to duly describe the offence of which the person accused is guilty, and in such cases to remand the person detained to custody but otherwise to order his discharge. R.S.O. 1927, c. 116, s. 6.

Proceedings for inquiring into the truth of the matters alleged in the return.

7. Although the return to a writ of *habeas corpus* is good and sufficient in law the court or judge before whom the writ is returnable may examine into the truth of the facts set forth in the return, by affidavit or other evidence, and may order and determine touching the discharging, bailing, or remanding the person. R.S.O. 1927, c. 116, s. 7.

Appeal from remandment to custody.

8.—(1) Where a person confined or restrained of his liberty, is brought before a judge upon a writ of *habeas corpus*, and is remanded into custody upon the original order or warrant of commitment, or by virtue of any warrant, order or rule of such judge, such person may appeal from the decision or judgment of the judge to the Court of Appeal, and thereupon the writ of *habeas corpus*, the return thereto, and the affidavits, depositions, evidence, conviction and other proceedings shall be certified by the proper officer to the Court of Appeal.



(2) The Court of Appeal shall thereupon hear and determine the appeal without formal pleadings, and if the court determines that the confinement or restraint is illegal shall so certify to the person having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly. R.S.O. 1927, c. 116, s. 8, *amended*. Court may order discharge.

**9.** The provisions of this Act shall extent to all writs of *habeas corpus* awarded in pursuance of the Act passed in England in the 31st year of the reign of King Charles the Second, commonly called *The Habeas Corpus Act*, or otherwise in as ample and beneficial a manner as if such writs and the cases arising thereon had been herein specially named and provided for. R.S.O. 1927, c. 116, s. 9. Application of Act.

(NOTE.—See 29-30 Vict. c. 45, *Canada*, which is not included in the *Revised Statutes of Canada*.)

**10.** The judges authorized under *The Judicature Act* to make rules may make such rules of practice in reference to the proceedings on writs of *habeas corpus* as may seem necessary or expedient. R.S.O. 1927, c. 116, s. 10. Power to make rules. Rev. Stat., c. 100.

## CHAPTER 130.

## The Constitutional Questions Act.

Reference to  
Court  
authorized.

1. The Lieutenant-Governor in Council may refer to the Court of Appeal or to a judge of the Supreme Court for hearing and consideration any matter which he thinks fit, and the Court shall thereupon hear and consider the same. R.S.O. 1927, c. 117, s. 1.

Court to  
certify  
opinion.

2. The Court shall certify to the Lieutenant-Governor in Council its opinion on the matter referred, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his opinion and his reasons. R.S.O. 1927, c. 117, s. 2.

Notice to  
Attorney-  
General of  
Canada.

3. Where the matter relates to the constitutional validity of any Act of this Legislature, or of some provision thereof, the Attorney-General for Canada shall be notified of the hearing in order that he may be heard if he sees fit. R.S.O. 1927, c. 117, s. 3.

Notice to  
persons  
interested.

4. The Court shall have power to direct that any person interested, or where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing, and such persons shall be entitled to be heard. R.S.O. 1927, c. 117, s. 4.

Appoint-  
ment of  
counsel to  
argue case  
for un-  
represented  
interests.

5. Where any interest affected is not represented by counsel, the Court may request counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario out of any money appropriated by this Legislature and applicable for that purpose. R.S.O. 1927, c. 117, s. 5.

Appeal.

6. The opinion of the Court shall be deemed a judgment of the Court, and an appeal shall lie therefrom as from a judgment in an action. R.S.O. 1927, c. 117, s. 6.

Enactments  
applicable  
to appeals.

7. Where an appeal is had to the Court of Appeal, sections 2, 3, 4, 5 and 6 shall apply as if the original reference had been to the Court of Appeal. R.S.O. 1927, c. 117, s. 7.

Appeal to  
Privy  
Council.  
Rev. Stat.,  
c. 98.

8. An appeal to His Majesty in His Privy Council from a judgment of any court on a reference under this Act shall not be subject to the restrictions contained in *The Privy Council Appeals Act*. R.S.O. 1927, c. 117, s. 8.

## CHAPTER 131.

## The Vexatious Proceedings Act.

1.—(1) Where upon an application made by way of originating notice according to the practice of the court and with the consent in writing of the Attorney-General a judge of the Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Supreme Court or in any other court against the same person or against different persons, the judge may order that no legal proceedings shall, without leave of the Supreme Court or a judge thereof, be instituted in any court by the person taking such vexatious legal proceedings, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings. Procedure to prevent bringing of vexatious proceedings.

(2) The Attorney-General shall have the right to appear and be heard in person or by counsel upon any application under subsection 1. Attorney-General may be heard.

(3) A copy of an order made under this section shall be published in the *Ontario Gazette*. 1930, c. 24, s. 2. Publication of order.

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## 6. ADMINISTRATION OF JUSTICE IN CRIMINAL MATTERS.

### 1. Magistrates and Procedure.

## CHAPTER 132.

### The Justices of the Peace Act.

#### PART I.

#### QUALIFICATION AND APPOINTMENT OF JUSTICES.

Justices  
of the  
peace *ex*  
*officio*.

**1.**—(1) Every judge of the Supreme Court of Canada, of the Exchequer Court of Canada, and of the Supreme Court of Ontario, and every judge and junior judge of a county or district court shall be *ex officio* a justice of the peace for every county, district and part of Ontario and as such *ex officio* justice shall have power to do alone whatever is authorized to be done by two or more justices of the peace.

Idem.

(2) Sections 2 to 12 shall not apply to any person who is *ex officio* a justice of the peace. R.S.O. 1927, c. 118, s. 1.

Appoint-  
ment by the  
Lieutenant-  
Governor  
in Council.

**2.** The Lieutenant-Governor by commission under the Great Seal in pursuance of an Order-in-Council, whenever he thinks fit, may appoint justices of the peace in and for the Province of Ontario or any part thereof. R.S.O. 1927, c. 118, s. 2; 1935, c. 34, s. 2.

Effect of a  
new general  
commission.

**3.** Where a new general commission of the peace is issued all former general commissions shall become absolutely revoked and cancelled, but nothing in this Part contained shall prevent the reappointment of any justice of the peace named in any former commission, if the Lieutenant-Governor thinks fit, and the issue of a supplementary commission of the peace for any county or district shall not operate as a revocation of a general commission. R.S.O. 1927, c. 118, s. 3.



4. Where a town has been erected into a city, and the council of the city duly organized, every commission of the peace for the town shall cease. R.S.O. 1927, c. 118, s. 4.

**5.** Except where otherwise specially provided no solicitor shall be a justice of the peace during the time he continues to practise. R.S.O. 1927, c. 118, s. 6.

**6.** No sheriff or coroner in and for any county, district or place shall be competent or qualified to be a justice of the peace or to act as such for any county, district or place wherein he is sheriff or coroner, under the penalties hereinafter mentioned, and every act done by a sheriff or coroner, by the authority of any commission of the peace, shall be void. R.S.O. 1927, c. 118, s. 7.

**7.** A justice of the peace shall take and subscribe the oath of allegiance and the oath following:

I, A.B., of the \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_ do swear that I will well and truly serve our Sovereign Lord King George (*or the reigning Sovereign for the time being*) in the office of Justice of the Peace, and I will do right to all manner of people, after the laws and usages of this Province, without fear or favour, affection or ill-will. So help me God.

Sworn before me, etc.

$A, B,$

R.S.O. 1927, c. 118, s. 10.

**8.** Every person appointed a justice of the peace shall take the oaths of office and of allegiance within three months from the date of the commission under which he is appointed, otherwise the commission shall, so far as the same relates to him, be deemed to be absolutely revoked and cancelled. Limitation of time for taking oaths.  
R.S.O. 1927, c. 118, s. 11; 1935, c. 34, s. 4.

**9.**—(1) Every oath of office and of allegiance taken by a <sup>Filing oaths.</sup> justice of the peace shall forthwith after the same is taken be transmitted or delivered by him to the clerk of the peace of the county or district within which the justice of the peace is to act, and shall be filed in the office of the clerk of the peace. R.S.O. 1927, c. 118, s. 12 (1); 1935, c. 34, s. 5 (1).

(2) The clerk of the peace shall keep posted up in his Records. office a list of the justices of the peace who have taken the oaths of office and of allegiance, and the same shall be open to inspection without payment of any fee. R.S.O. 1927, c. 118, s. 12 (2); 1935, c. 34, s. 5 (2).

**10.** The clerk of the peace shall, upon demand, forthwith deliver a true and attested copy of the oaths to any person

paying the sum of twenty-five cents for the same, which copy being produced as evidence on the trial of any proceeding under this Act, shall have the same force and effect as the record of the oath would have if produced. R.S.O. 1927, c. 118, s. 13.

No new oath required from persons who have before qualified.

**11.** It shall not be necessary for any justice of the peace named in any commission who, after his appointment as such justice by a former commission, took the oath of office and the oath of allegiance to again take such oaths before acting under the new commission. R.S.O. 1927, c. 118, s. 14; 1935, c. 34, s. 6.

Penalty for acting without being qualified or taking oaths.

Rev. Stat., c. 136.

**12.**—(1) When not otherwise provided any person who acts as justice of the peace without having taken, subscribed and filed with the clerk of the peace the oaths of office and of allegiance, shall incur a penalty of \$50 recoverable under *The Summary Convictions Act*. R.S.O. 1927, c. 118, s. 15 (1); 1935, c. 34, s. 7 (1).

Subsequent prosecution.

(2) Where proceedings have been instituted under this section and are proceeded with without fraud and with effect no subsequent prosecution shall be brought against the same person for any offence committed before such proceedings were begun.

Application of penalties.

(3) The penalties recovered under this Act shall belong to the Crown if the Crown is the prosecutor and if a private person is the prosecutor one-half shall belong to him and the other half shall belong to the Crown. R.S.O. 1927, c. 118, s. 15 (3, 4).

Use of town hall.

**13.** A justice of the peace shall have the right, unless another suitable place is provided by the municipality, to use the town hall of any municipality for the hearing of cases brought before him, but not so as to interfere with its ordinary use. R.S.O. 1927, c. 118, s. 16.

Powers of justices of the peace.

**14.**—(1) Any justice of the peace acting within his territorial jurisdiction, may take an information or issue a search warrant or a summons or warrant returnable before a magistrate having jurisdiction to try the case and may hear and determine a prosecution under a by-law of any municipality.

Limitation of power.

(2) Save as provided in subsection 1, a justice of the peace shall not act in any case except under the direction of a magistrate or the Inspector of Legal Offices. 1936, c. 33, s. 2, *part*.

(NOTE.—As to appointment of justices for a limited period for the purpose of taking cognizance of certain offences, see "*The Forest Fires Prevention Act*," Rev. Stat., c. 325.)

## PART II.

## RETURNS OF CONVICTIONS BY JUSTICES.

**15.** Where a justice of the peace tries any offence,—

Returns.

(a) under a municipal by-law, or

(b) under the direction of a magistrate or the Inspector of Legal Offices,

he shall make such returns as the Inspector of Legal Offices may direct. 1935, c. 34, s. 8.

**16.** Nothing herein shall exonerate a justice of the peace from duly returning to the court of general sessions of the peace any conviction or record of convictions which is by law required to be so returned. R.S.O. 1927, c. 118, s. 20.

Return of convictions to general sessions.

**17.**—(1) If a justice of the peace or a magistrate before whom a conviction takes place, or who receives any money, neglects or refuses to make the prescribed return, or wilfully makes a false, partial or incorrect return, he shall incur a penalty of \$60 together with full costs of suit.

Penalty on justice of the peace neglecting to make returns, etc.

(2) If a judgment passes for the defendant, or the plaintiff discontinues the action, the defendant shall recover his full cost of suit as between solicitor and client. R.S.O. 1927, c. 118, s. 21.

Defendant to have solicitor and client costs.

**18.** This Part shall not apply to the City of Toronto. R.S.O. 1927, c. 118, s. 22.

Part II not to apply to Toronto.

## PART III.

**19.** In cases not provided for by the *Criminal Code* and *The Summary Convictions Act* a magistrate and a justice of the peace not receiving a salary shall be entitled to receive from the county, or, in the case of a district, from the Province, \$2 for all services connected with the case where the time occupied by the hearing does not exceed two hours, and fifty cents for each additional hour above two hours. R.S.O. 1927, c. 118, s. 23; 1935, c. 34, s. 9.

Fees in certain cases not otherwise provided for. R.S.O. 1927, c. 36. Rev. Stat. c. 136.

**20.** Where the justice of the peace, for the convenience of witnesses and others, attends at a distance from his residence to hear the evidence on a criminal charge he shall be entitled to a mileage allowance of fifteen cents a mile one way for the distance necessarily travelled, to be paid by the county, or, in the case of a district, by the Province. R.S.O. 1927, c. 118, s. 24.

Mileage allowance.

Salaries,  
fees and  
emoluments.

**21.** The Lieutenant-Governor in Council may make regulations providing for the payment of salaries, fees and emoluments to justices of the peace and may direct that any city to which a justice of the peace is assigned shall pay to such justice of the peace such salary as may be determined by the Lieutenant-Governor in Council. 1936, c. 33, s. 2, *part*.

Penalty for  
charging  
excessive  
fees.

**22.** A justice of the peace who wilfully receives a larger fee than authorized by law shall incur a penalty of \$60, together with full costs of suit. R.S.O. 1927, c. 118, s. 25.

(NOTE.—*As to the powers of a justice of the peace to take affidavits and affirmations see "The Interpretation Act," Rev. Stat., c. 1, s. 23 (3).*)

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## CHAPTER 133.

## The Magistrates Act.

## 1. In this Act,—

Interpre-  
tation.

- (a) "County" shall include united counties and pro-<sup>visional county;</sup> "County."
- (b) "Inspector" shall mean Inspector of Legal Offices "Inspector." and shall include every Assistant Inspector of Legal Offices;
- (c) "Magistrate" shall include a deputy magistrate and a police magistrate and deputy police magistrate<sup>"Magis-  
trate."</sup> within the meaning of the *Criminal Code*. 1936, R.S.C., c. 36, c. 35, s. 2.

2.—(1) The Lieutenant-Governor in Council may appoint<sup>Appoint-  
ment.</sup> magistrates and deputy magistrates who shall hold office during pleasure.

(2) Where the council of a city having a population of one hundred thousand or over by resolution declares that it is<sup>Appoint-  
ment of  
female  
magistrate.</sup> desirable that a woman should be appointed to be a magistrate or deputy magistrate for such city, the Lieutenant-Governor in Council may appoint a woman to be a magistrate or deputy magistrate accordingly and where there are more magistrates than one for any such city the appointment may be in addition to any magistrate then in office or to fill an existing vacancy among the magistrates. 1936, c. 35, s. 3.

3. On the recommendation of the Attorney-General, the<sup>Designation.</sup> Lieutenant-Governor in Council may designate and define any number of magisterial districts. 1936, c. 35, s. 4.

4. The Attorney-General may designate any magistrate as<sup>Senior  
magistrate.</sup> senior magistrate for a magisterial district. 1936, c. 35, s. 5.

5. Every magistrate appointed under the provisions of<sup>Jurisdiction.</sup> this Act shall have jurisdiction to act at any place within the Province of Ontario, but the Order-in-Council appointing a magistrate may assign such magistrate to any magisterial district or part thereof. 1936, c. 35, s. 6.



**12.**—(1) The board of commissioners of police of any city having a population of not less than fifty thousand may appoint one or more official interpreters to act in all cases coming before any magistrate of such city in which the services of an interpreter may be required, and any such interpreter or interpreters may be paid such salary or other remuneration as may be fixed by the board, and such salary or remuneration shall be paid by the board out of moneys which shall be appropriated for that purpose by the council of such city.

Appointment of interpreters in cities.

(2) The magistrate may employ an interpreter in any case in which the services of an interpreter may be required.

Appointment of interpreters.

**13.** Where a magistrate appointed for a named city has attained the age of seventy years, the council of the city may by by-law provide for the payment to such magistrate during his lifetime, of an annual sum by way of superannuation allowance.

Super-annuation in cities excluded from any district.

**14.**—(1) Every magistrate appointed under this Act shall be paid such annual salary as may be fixed by the Lieutenant-Governor in Council.

Salaries to be fixed by Lieutenant-Governor in Council.

(2) The salary of every magistrate shall be paid monthly and shall be apportionable to the date of death of the magistrate, or of his vacating his office.

Payment of salaries monthly.

**15.**—(1) The salary and travelling expenses of every magistrate appointed under this Act shall be payable out of such sums as may be appropriated by the Legislature for the payment of salaries of magistrates, provided, however, that the Lieutenant-Governor in Council may by the order appointing any magistrate, direct that in lieu thereof the salary of the magistrate shall be paid by any city to which the magistrate is assigned.

Salaries and travelling expenses, — how payable.

(2) Except in the case of a magistrate whose salary is directed to be paid by a city as provided in subsection 1, every magistrate shall deduct two-fifths of the total amount of the moneys coming into his hands in fines and fees which would otherwise accrue to the treasurer of the municipality, and shall pay such deducted amount to the Treasurer of Ontario.

Partial repayment to Province

**16.** A magistrate may sit or hold his court in any city, town or village, and in such other places as may be necessary.

Power to hold court in cities or towns, etc.

**17.** A magistrate shall have the right to use any court-

Use of courtroom

room or town hall belonging to a county or municipality in which he may sit, but not so as to interfere with the ordinary use of the court room or town hall for other courts or other purposes for which the same is maintained. 1936, c. 35, s. 18.

Offices  
and court  
rooms.

**18.**—(1) Every county shall provide a suitable office, furniture, equipment, stationery, clerical assistance and other accommodation for the magistrate in accordance with the regulations.

In  
provisional  
judicial  
districts.

(2) In provisional judicial districts the Lieutenant-Governor in Council may authorize the purchase, erection or rental of a suitable building or part of a building for the office of the magistrate. 1936, c. 35, s. 19.

Forms and  
stationery.

**19.** The forms and stationery used by every magistrate shall be as prescribed by the Inspector. 1936, c. 35, s. 20.

Exceptions  
as to cities  
providing  
forms, etc.

**20.** Notwithstanding anything contained in this Act, the Lieutenant-Governor in Council may direct that any city to which a magistrate is assigned, shall provide a suitable office, furniture, equipment, stationery, clerical assistance and other accommodation for the magistrate in accordance with the regulations. 1936, c. 35, s. 21.

Audit of  
accounts.  
Rev. Stat.,  
c. 141.

**21.** All accounts relating to salaries and expenses shall be audited as provided in section 15 of *The Administration of Justice Expenses Act*. 1936, c. 35, s. 22.

Magistrates  
for city of  
Toronto.

**22.** Notwithstanding anything contained in this Act, the Lieutenant-Governor in Council may appoint four magistrates for the City of Toronto, and when deemed necessary, additional magistrates. 1936, c. 35, s. 23.

Senior  
magistrate  
for Toronto.

**23.** One of the magistrates for the City of Toronto may be designated senior magistrate. 1936, c. 35, s. 24.

Regulations.

**24.**—(1) The Lieutenant-Governor in Council may make regulations,—

- (a) fixing the period and manner in which fines and fees payable to the Treasurer of Ontario or any municipality entitled to any fines under this or any other Act, shall be paid over by magistrates;
- (b) providing for the inspection of the books, accounts and offices of magistrates;
- (c) defining the powers and duties of the Inspector;



- (d) providing for the appointment or employment of stenographic reporters to take down evidence before magistrates;
- (e) defining the classes of cases in which stenographic reporters may be employed and the terms and conditions of such employment;
- (f) fixing the fees and remuneration of stenographic reporters;
- (g) providing for the remuneration of a stenographic reporter by the municipal corporation or by the parties to any proceeding before the magistrate as part of the costs in the case or partly by one method and partly by the other, and where the remuneration is made payable by the municipal corporation, providing for the allowance of a charge for stenographic reporting as part of the costs in any case in which a stenographic report of the proceedings has been taken;
- (h) prescribing the returns to be made by magistrates;
- (i) providing for the appointment of clerical and other assistants of a magistrate and prescribing the duties and fixing the salary or other remuneration of such assistants;
- (j) prescribing the equipment, arrangement and furnishings of magistrates' offices, or any office connected with the administration of justice by magistrates;
- (k) prescribing the powers, duties and office hours of magistrates;
- (l) generally for the better carrying out of the provisions of this Act.

(2) Any such regulation may be general or particular in its application and may provide for the imposing of penalties for a breach of the regulations and the recovery of such penalties under *The Summary Convictions Act*, or in such other manner as the Lieutenant-Governor in Council may prescribe.

Regulations,—  
general or  
particular.  
Rev. Stat.,  
c. 136.

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## CHAPTER 134.

## The Magistrates' Jurisdiction Act.

Designating  
magistrates  
and juvenile  
court  
judges to  
hear cases  
under  
provincial  
statutes.

1. Where jurisdiction is given to any justice or justices, magistrate or deputy magistrate, judge or deputy judge of a juvenile court under any statute of Ontario for conducting any inquiry or the hearing, trial or disposition of any matter arising under any statute of Ontario, the Lieutenant-Governor in Council may, within his jurisdiction, designate and name any such justice or justices, magistrate or deputy magistrate, judge or deputy judge of any juvenile court, to conduct any such inquiry, and hear, determine, try and dispose of any such matter under any statute of Ontario, and may confer exclusive, or joint, or general jurisdiction upon justices, magistrates, deputy magistrates, and judges or deputy judges of juvenile courts, or any one or more of them, to conduct such inquiry and hear, determine, try and dispose of any such matter. 1929, c. 36, s. 2.

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## CHAPTER 135.

### The Public Authorities Protection Act.

1. In this Act "justice of the peace" shall include a magis-<sup>Interpreta-</sup>trate, a person who is *ex officio* a justice of the peace, and a person who has by law the powers of a justice of the peace, either generally or with regard to any particular matter and any other person authorized to hear and determine any argument or to try any offence. R.S.O. 1927, c. 120, s. 1.

#### ACTIONS AGAINST JUSTICES OF THE PEACE.

2. No action shall lie or be instituted against a justice of<sup>Conditions</sup> the peace for any act done by him in the execution of his duty of liability. as such justice with respect to any matter within his jurisdiction as such justice, unless the act was done maliciously and without reasonable and probable cause. R.S.O. 1927, c. 120,<sup>Where</sup> s. 2. jurisdiction.

3.—(1) For any act done by a justice of the peace in a<sup>Where no</sup> matter in which by law he has not jurisdiction, or in which jurisdiction. he has exceeded his jurisdiction, or for any act done under a conviction or order made or a warrant issued by him in such matter, any person injured thereby may maintain an action against the justice in the same case as he might have heretofore done, and it shall not be necessary to allege or prove that the act was done maliciously and without reasonable and probable cause.

(2) Where a conviction or order has been made by a justice<sup>Where</sup> of the peace, and a warrant of distress or of commitment has conviction, been issued thereon by some other justice of the peace, *bona* and execu-<sup>tion by</sup> *fide* and without collusion, no action shall be brought against different justices. the justice who issued the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice who made the same, but the action, if any, shall be brought against the justice who made the conviction or order.

(3) No such action as is mentioned in this section shall be<sup>No action</sup> brought for anything done under a conviction or order or until brought under a warrant issued by a justice of the peace to procure conviction or order the appearance of the party, which has been followed by a<sup>quashed.</sup>

conviction or order in the same matter, until the conviction or order has been quashed.

No action where summons previously served and not obeyed.

(4) Where such warrant has not been followed by a conviction or order, or is a warrant upon an information for an indictable offence, if a summons was issued previously to the warrant, and the summons was served upon such party, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of the summons, no such action shall be maintained against the justice for anything done under the warrant.

Nor when order of protection made.

(5) Notwithstanding the provisions of this section no action shall lie when an order has been made under section 7 for the protection of the justice. R.S.O. 1927, c. 120, s. 3.

Where acting under order of the court.

4. Where a justice of the peace refuses to do any act relating to the duties of his office as such justice, the person requiring the act to be done may, upon affidavit stating the facts, and upon six days' notice to him, and also to the party to be affected by the act, apply to a judge of the Supreme Court, or to the judge of the county or district court of the county or district in which the justice resides, for an order directing the act to be done. R.S.O. 1927, c. 120, s. 4.

Where conviction, etc., confirmed on appeal.

5. Where a justice of the peace has issued a warrant of distress or a warrant of commitment upon a conviction or order which either before or after the issuing of the warrant has been confirmed upon appeal, no action shall be brought against such justice by reason of any defect in the conviction or order or for anything done under the warrant. R.S.O. 1927, c. 120, s. 5.

Where protection may be claimed notwithstanding defects in proceedings.

6.—(1) No defect in an information taken before or in a warrant issued by a justice of the peace shall prevent him from claiming the benefit and protection of this Act if the court is of opinion that he acted in good faith, and that the informant or complainant intended, by the facts stated to the justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the justice, and in such case the informant or complainant shall be liable as if the information had charged in proper form the commission of the offence so intended to be charged.

Non-liability of informant where offence not properly described.

(2) An action shall not be brought against a person who has in good faith laid an information before a justice of the peace or by reason of the information not containing a proper



description of the offence or being otherwise defective. R.S.O. 1927, c. 120, s. 6.

7.—(1) Where an order is made quashing a summary conviction the court may provide that no action shall be brought against the justice of the peace who made the conviction or against the informant or any officer acting thereunder or under any warrant issued to enforce such conviction or order, Conditions on quashing convictions.

(2) Such an order may be made conditional upon payment of the costs of the motion to quash or upon such other condition as may be deemed proper. R.S.O. 1927, c. 120, s. 7. Order may be made conditional.

8. If an action is brought where by this Act it is enacted that no action shall be brought it may be stayed upon a summary application. R.S.O. 1927, c. 120, s. 8. When action may be stayed upon summary application.

9. Where the plaintiff is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of three cents as damages for the imprisonment, or any costs of suit, if it is proved that he was actually guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and, with respect to the imprisonment, that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. R.S.O. 1927, c. 120, s. 9. Damages nominal in certain cases. Imp. Act, 11 and 12 V., c. 44, s. 13.

#### ACTION AGAINST CONSTABLE, DIVISION COURT BAILIFF OR OTHER OFFICER.

10.—(1) No action shall be brought against a constable, division court bailiff or other officer, or against any person acting by his order and in his aid, for anything done in obedience to a warrant issued by a justice of the peace or clerk of a division court until demand has been made or left at his usual place of abode by the person intending to bring such action or by his solicitor or agent in writing, signed by the person demanding the same, of the perusal and copy of such warrant and the same has been refused and neglected for six days after such demand. Liability of officer acting under warrant. Conditions of liability. 24 Geo. II., c. 44, s. 6. (Imp.)

(2) If, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought Dismissal of action.

against such constable, bailiff or officer, or such person so acting, for any cause without making the justice or clerk who issued the warrant a defendant, on the production and proof of the warrant at the trial of the action judgment shall be given for the defendant notwithstanding any defect of jurisdiction in such justice or clerk.

Action brought jointly against justice or clerk and constable or bailiff.

(3) If the action is brought jointly against such justice or clerk and such constable or bailiff or other officer or person so acting, on proof of such warrant, judgment shall be given for such constable or bailiff or other officer and for such person so acting notwithstanding such defect in jurisdiction.

Costs.

(4) If the judgment is given against the justice or clerk the plaintiff shall, in addition to any costs awarded to him, be entitled to recover such costs as he is liable to pay to the defendant for whom judgment is given. R.S.O. 1927, c. 120, s. 10.

#### ACTIONS AGAINST PUBLIC AUTHORITIES.

An action against a person for any act done under public authority to be begun within six months Imp. Act, 56 and 57, Vict., c. 61, s. 1.

**11.** No action, prosecution, or other proceeding shall lie or be instituted against any person for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in case of continuance of injury or damage, within six months after the ceasing thereof. R.S.O. 1927, c. 120, s. 11 (1).

Persons obeying writ of *mandamus* protected.

**12.** No action or other proceeding shall be commenced or prosecuted against any person for or by reason of anything done in obedience to a *mandamus* or mandatory order. R.S.O. 1927, c. 120, s. 12.

Protection of those acting under *ultra vires* statutes.

**13.** No action shall be brought against a judge, justice of the peace, or officer for anything done by him under the supposed authority of a statute of Ontario or of the Dominion of Canada which was beyond the legislative jurisdiction of this Legislature or of the Parliament of Canada, as the case may be, if the action would not lie against him had the statute been within the legislative jurisdiction of the Legislature or Parliament which assumed to enact the same. R.S.O. 1927, c. 120, s. 13.

#### SECURITY FOR COSTS.

Applications for security for costs.

**14.** Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any public duty, stat-

utory or otherwise, or authority, or in respect of any alleged neglect or duty in the execution of any such statute, duty or authority, the defendant may at any time after the service of the writ apply for security for costs if it be shown that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment should be given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous. R.S.O. 1927, c. 120, s. 14.

#### APPLICATION OF ACT.

**15.** This Act shall not apply to a municipal corporation. Application of Act.  
R.S.O. 1927, c. 120, s. 15.

**16.** A sheriff or his officer acting under a writ of execution or other process shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this Act. Application of Act to sheriffs and their officers. 1934, c. 45, s. 3.

## CHAPTER 136.

## The Summary Convictions Act.

Interpreta-  
tion  
"Justice."

**1.** In this Act "justice" shall mean a justice of the peace and shall include two or more justices sitting and acting together, a magistrate, and every other officer or functionary having, for the purposes of any Act, the authority of a justice of the peace or magistrate. R.S.O. 1927, c. 121, s. 1.

## APPLICATION OF ACT.

Application  
of Act.

**2.** Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Act shall apply to,—

- (a) every case in which any person commits, or is suspected of having committed, any offence or act over which this Legislature has legislative authority, and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;
- (b) every case in which a complaint is made to a justice in relation to any matter over which this Legislature has legislative authority and with respect to which such justice has authority by law to make an order for the payment of money or otherwise. R.S.O. 1927, c. 121, s. 2.

## POWERS AND DUTIES OF JUSTICE.

Application  
of *Criminal*  
*Code*.  
R.S.C.,  
c. 36.

**3.—(1)** Except where otherwise provided Part XV, other than sections 735 and 736, and sections 1028, 1029, 1054, 1055, 1121, 1124, 1125, 1131 and 1142, of the *Criminal Code* shall apply *mutatis mutandis* to every such case as if the provisions thereof were enacted in and formed part of this Act. R.S.O. 1927, c. 121, s. 3.

Rev. Stat.,  
c. 100.

(2) Notwithstanding anything contained in *The Judicature Act*, a case stated under the said Part XV shall be heard and determined by a judge of the Supreme Court in chambers. 1930, c. 21, s. 10 (1).



4. Where a conviction or order of a justice adjudges that a fine, penalty or costs be paid the conviction or order shall not be void nor shall the right to collect any fine or costs or to enforce any penalty under any such conviction or order be impaired because of time having been allowed for the payment of the sum, or any part thereof, or because of payment having been received of part of the sum adjudged to be paid, or because of the justice having accepted security for the payment of the same, of any part thereof. R.S.O. 1927, c. 121, s. 4. Effect of giving time for payment.

5.—(1) The justice may award and order, in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace. R.S.O. 1927, c. 121, s. 5 (1); 1929, c. 37, s. 2. Payment of prosecutor's costs.

(2) Where the justice dismisses the information or complaint he may by the order of dismissal award and order that the prosecutor or complainant shall pay to the defendant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace. R.S.O. 1927, c. 121, s. 5 (2); 1929, c. 37, s. 2. Payment of defendant's costs.

(3) The sums allowed for costs shall be stated in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, and such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison, and it shall not be necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the gaoler, and in the case of a distress the person by whom the same are payable shall be entitled on demand to a statement of the amount thereof. Recovery of costs.

(4) Where there is no penalty to be recovered, or where the information or complaint is dismissed the costs shall be specified in the order and shall be recoverable only by distress and sale of the goods and chattels of the party. R.S.O. 1927, c. 121, s. 5 (3, 4). Recovery of costs where no penalty.

(5) The costs awarded by the justice to the prosecutor or complainant or to the defendant, as the case may be, may include a counsel fee of such an amount as the justice may deem reasonable but not exceeding \$10. 1929, c. 37, s. 3. Counsel fee.

Suspended  
sentence.

**6.**—(1) In any case in which a person is convicted of an offence for which a minimum punishment is not provided and he has not been previously convicted of any offence, the justice may, if he thinks it expedient having regard to the age, character and antecedents of the offender and to the nature of the offence and to any extenuating circumstances, direct that he be released upon suspended sentence.

Sentence  
after  
suspension.

(2) The offender so released may at any time within two years or such shorter period as the justice may fix, be called upon to appear and receive sentence if in the meantime he fails to keep the peace and be of good behaviour.

Security  
from person  
convicted.

(3) The justice may, if he sees fit, require a bond with or without sureties for such appearance and keeping of the peace and good behaviour. R.S.O. 1927, c. 121, s. 6.

Return of  
convictions.

**7.**—(1) Every justice shall forthwith after making a conviction or order or an order of dismissal transmit to the clerk of the peace for the county or district the conviction or order or order of dismissal together with the information, depositions and other papers relating to the case and any recognizances in respect of which proceedings are required to be taken in the court of general sessions of the peace. R.S.O. 1927, c. 121, s. 7.

Transcrip-  
tion of  
evidence.

(2) Where the evidence in any case is taken down in shorthand there shall be no transcription of the evidence unless,—

- (a) one of the parties to the case requires a transcription;
- (b) an appeal is taken from the conviction or order; or
- (c) the clerk of the peace requires a transcription to be made. 1931, c. 30, s. 2.

Search  
warrant,  
when to be  
issued.

**8.**—(1) Where a justice of the peace is satisfied by information upon oath (Form 1) that there is reasonable ground for believing that there is in any building, receptacle or place,—

- (a) anything upon or in respect of which an offence against a statute of Ontario has been or is suspected to have been committed; or
- (b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence;

he may at any time issue a warrant (Form 2) under his hand authorizing some constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or some other justice for the same territorial division to be by him dealt with according to law.

(2) Every search warrant shall be executed between sunrise and sunset, unless the justice shall by the warrant authorize the constable or other person to execute it at night. When to be executed.

(3) When any such thing is seized and brought before a justice he may detain it, taking reasonable care to preserve it until the conclusion of the investigation, and, if no one is convicted, the justice shall direct such thing to be restored to the person from whom it was taken unless he is authorized or required by law to dispose of it otherwise. R.S.O. 1927, c. 121, s. 8. How things seized to be dealt with.

**9.**—(1) Where a person charged with an offence against any statute of Ontario, or against any by-law passed under the authority of any such statute, is taken into custody either with or without the warrant of a justice of the peace and is brought into a police station in a city or town at any time during the day or night the police officer in charge of the station, if he thinks the case a proper one, may take bail without fee from such person, by recognizance conditioned for his appearance within two days before the magistrate or other justice in the city or town at the time and place therein mentioned. When officers in charge of police station may take bail.

(2) The recognizance shall be of equal obligation on the persons entering into the same, and the same proceedings may be taken for the estreating thereof as if it had been taken before a justice of the peace. R.S.O. 1927, c. 121, s. 9. Effect of recognizance so taken.

**10.** The police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance, and of his surety or sureties, if any, with the condition of the recognizance and the sums acknowledged. R.S.O. 1927, c. 121, s. 10. Record of recognizance.

**11.** The police officer shall make a return of all recognizances taken by him to the magistrate, or other justice present, at the time when, and place where, the person charged is required to appear. R.S.O. 1927, c. 121, s. 11. When return of recognizance to be made.

**12.** In all proceedings for offences against the statutes of this Province or against the provisions of any by-laws or Affixing of seal not necessary.

regulations passed or made under such statutes, it shall not be necessary for the judge or magistrate to affix his seal to any document, and no document shall be invalidated by reason of the lack of a seal even though it purports to be sealed. R.S.O. 1927, c. 121, s. 12.

#### APPEALS FROM CONVICTIONS.

Appeal from conviction or order.

**13.**—(1) Unless it is otherwise provided in the Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information or complaint, any person who thinks himself aggrieved by any such conviction or order or order of dismissal, the prosecutor or complainant as well as the defendant may appeal to the county or district court of the county or district as the case may be, in which the cause of the information or complaint arose. R.S.O. 1927, c. 121, s. 13 (1); 1934, c. 56, s. 2 (1).

*Certiorari* or motion therefor not to be granted where defendant has appealed.

(2) No such order or conviction and no order or conviction made on appeal therefrom shall be removed into the Supreme Court by a writ of *certiorari* or motion instead thereof if the defendant has appealed from such order or conviction to any court to which an appeal from such order or conviction is authorized by law. 1931, c. 30, s. 3 (1).

Costs of appeal.

(3) Where an appeal is taken to the judge of the county or district court the judge may award reasonable costs to either party including counsel fees and all necessary disbursements. 1931, c. 30, s. 3 (2); 1934, c. 56, s. 2 (3).

#### APPEAL TO THE COURT OF APPEAL.

Appeal from judgment on motion to quash.

**14.**—(1) If the Attorney-General for Canada or the Attorney-General for Ontario certifies that, in his opinion, a judgment or decision of the Supreme Court or a judge thereof upon a stated case or upon an application to quash a conviction made under an Act of Ontario creating an offence punishable by summary conviction before a justice or to discharge a prisoner who is held in custody under such conviction, whether the conviction has been quashed or the prisoner discharged or the application refused, involves a question on the construction of *The British North America Act*, and is of sufficient importance to justify an appeal, an appeal at the instance of either Attorney-General or of any party who thinks himself aggrieved shall lie therefrom to the Court of Appeal. R.S.O. 1927, c. 121, s. 14 (1); 1930, c. 21, s. 10 (2).

Imp. 30-31 V., c. 3.



(2) If the Attorney-General for Ontario certifies that with opinion a judgment or decision of a county or district justice on an appeal under this Act, involves a question of law of sufficient importance to justify an appeal, an appeal officer lie therefrom to the Court of Appeal. R.S.O. 1927, s. 14 (2); 1936, c. 57, s. 2.

(3) After the decision of the Court of Appeal the justice of such from whom the appeal was had, or any other justice exercising the same jurisdiction, shall have authority to enter such the order of the court upon the appeal.

(4) The defendant shall in no event be ordered to pay any costs on an appeal brought by the Attorney-General for Canada or by the Attorney-General for Ontario under this section. R.S.O. 1927, c. 121, s. 14 (3, 4).

**15.** The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day on which the prisoner is lodged in gaol thereunder but no time during which the convicted person is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. R.S.O. 1927, c. 121, s. 15.

When term of imprisonment to commence.

(NOTE.—See sections, 25, 26, 27 of *The Interpretation Act* as to place of imprisonment, hard labour, and offences under more than one provision. See *The Judicature Act*, section 62 as to certiorari.)

**16.** The fees mentioned in the tariff set out in Schedule A to this Act and no others shall be and constitute the fees to be taken on proceedings before justices of the peace under this Act. R.S.O. 1927, c. 121, s. 16.

Tariff of fees.

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## SCHEDULE A.

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be taken by justices of the peace or their clerks, on proceedings  
*Summary Convictions Act.*—

Appeal from  
conviction or  
order.

ation or complaint and warrant or summons.....	\$1.00
ant where summons issued in first instance.....	.25
a necessary copy of summons or warrant.....	.10
13. For each summons or warrant to or for a witness or witnesses, wh <sup>i</sup> ch (only one summons to each side to be charged for in each t <sup>e</sup> case, which may contain any number of names. If the justice of the case requires it, additional summonses shall be issued without charge).....	.10
5. Information for warrant for witness and warrant.....	1.00
6. Each necessary copy of summons or warrant for witness....	.10
7. For every recognizance.....	.25
8. For hearing and determining case.....	1.50
9. If case lasts over two hours.....	2.00
10. Where one justice alone cannot lawfully hear and determine the case, the same fee for hearing and determining to be allowed to the associate justice.	
11. For each warrant of distress or commitment.....	.25
12. For making up record or conviction or order where the same is ordered to be returned to sessions or on certiorari But in all cases which admit of a summary proceeding before a single justice and wherein no higher penalty than \$20 can be imposed, there shall be charged for the record of conviction not more than.....	1.00 .50
13. For travelling to hear case and returning therefrom for convenience of parties and witnesses, actual travelling expenses not exceeding for going and coming, per mile	.15
14. For copy of any other paper connected with the case, and the minutes of the same if demanded, per folio of 100 words.....	.05
15. For bill of costs when demanded to be made out in detail	.10

(Items 14 and 15 to be chargeable when there has been an adjudication.)

R.S.O. 1927, c. 121, Sched. A.

## FORM I.

(Section 8 (1) .)

## INFORMATION TO OBTAIN A SEARCH WARRANT.

Province of Ontario,  
County of

The information of A. B., of \_\_\_\_\_, in the said \_\_\_\_\_ of such  
taken \_\_\_\_\_ day of \_\_\_\_\_, before me, C.D., Esq., a Justice of the Peace and  
year \_\_\_\_\_, before me, C.D., Esq., a Justice of the Peace and  
for the County (or District, etc.) of \_\_\_\_\_, who says that (*insert general description of things to be searched for and  
offence in respect of which search is made*), and that he has just and rea-  
sonable cause to suspect, and suspects, that the said goods and chattels,  
or some part of them, are contained in the (*dwelling-house, etc.*) of E. F.,  
of \_\_\_\_\_, in the said County (or District, etc.) (*here add the causes  
of suspicion, whatever they may be*). Wherefore (*he*) prays that a search  
warrant may be granted to him to search the (*dwelling-house, etc.*) of the  
said E. F., as aforesaid, for the said goods and chattels.

Sworn (*or affirmed*) before me  
the day and year first mentioned,  
at \_\_\_\_\_  
in the said County of \_\_\_\_\_

C. D.,  
J.P. for (*Name of County or District*).  
R.S.O. 1927, c. 121, Form 1.

## FORM 2.

(Section 8 (1) .)

## SEARCH WARRANT.

Province of Ontario,  
County of

To all or any of the constables and other peace officers in the said  
County of \_\_\_\_\_

Whereas it appears on the oath of A. B., of \_\_\_\_\_, that  
there is reason to suspect that (*describe the things to be searched for and  
offence in respect of which search is made*) are contained in \_\_\_\_\_,  
at \_\_\_\_\_ This is, therefore, to authorize you  
to enter between the hours of (*as the Justice shall direct*) into the said  
premises, and to search for the said things and to bring the same before  
me or some other Justice of the Peace.

Dated at \_\_\_\_\_, in the said County of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

C. D.,  
J.P. for (*Name of County or District*).

R.S.O. 1927, c. 121, Form 2.

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## 2. *Other Officers of Justice.*

### CHAPTER 137.

#### The Crown Attorneys Act.

Appeal from  
conviction or  
order.

#### PART I.

##### GENERAL.

Appoint-  
ment.

**1.** The Lieutenant-Governor in Council may appoint a Crown attorney for each of the counties and for each provincial judicial district in Ontario. R.S.O. 1927, c. 122, s. 1.

Qualifica-  
tion.

**2.** No person shall be appointed a Crown attorney or shall act in that capacity who is not a barrister-at-law of at least three years' standing at the Bar of Ontario. R.S.O. 1927, c. 122, s. 2.

Security.

**3.** Every Crown attorney shall give security for the due performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor in Council directs. R.S.O. 1927, c. 122, s. 3.

Oath of  
office.

**4.** Every Crown attorney shall before he enters upon his duties take and subscribe before the judge of the county or district court of the county or district for which he is appointed the following oath:

"I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney for the County (*or* District) of  
without favour or affection to any party: So help me God."

R.S.O. 1927, c. 122, s. 4.

Prohibition  
against  
acting for  
persons  
charged  
with  
offences.

**5.** No Crown attorney shall, by himself or his partner in business, act or be directly or indirectly concerned as counsel or solicitor for any prisoner or person in respect to any charge against such prisoner or person of any offence against the laws of Ontario or punishable under the laws of the Dominion. R.S.O. 1927, c. 122, s. 5.

Duties  
generally.

**6.** The Crown attorney shall aid in the local administration of justice, and perform the duties by this or any other



Act of Canada or of Ontario assigned to Crown attorney with  
R.S.O. 1927, c. 122, s. 6.

7. Every Crown attorney shall,—

- (a) receive and examine all informations, examinations, officer depositions, recognizances, inquisitions and other in the connected with criminal charges or offences of such the laws of Ontario which the justices of the peace and coroners of the county or district are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions at the sittings of the Supreme Court, the court of general sessions of the peace and the county or district court judges' criminal court, may not be unnecessarily delayed or fail through want of proof; To secure attendance of witnesses.
- (b) institute and conduct on the part of the Crown prosecutions for crimes and misdemeanours at the court of general sessions of the peace, and the county or district court judges' criminal court for the county or district in the same manner as the law officers of the Crown institute and conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at the court of general sessions of the peace, and the county or district court judges' criminal court; To institute and conduct prosecutions at sessions, etc.
- (c) watch over the conduct of the court of general sessions of the peace of cases wherein it is questionable whether the conduct complained of is punishable by law or where the particular act or omission presents more of the features of a private injury than of a public offence, and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition; To watch certain cases brought by private prosecutors.
- (d) deliver to the Crown officer or counsel appointed by the Attorney-General, all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the Court; To deliver papers connected with criminal business at assizes to Crown officer.
- (e) be present at the court, and, if required, assist the Crown officer or counsel with the criminal business, and, in the absence of the law officers of the Crown, When to take charge of business.

regul. and of such counsel, represent the Crown and take  
necess. charge and conduct the criminal business to be  
docume done at such sittings;

of the l.  
R.S.O.

if required by the general regulations touching his office made in pursuance of the provisions herein-after contained, on a complaint in writing, or where the public interests so require, institute and conduct proceedings before justices of the peace under any Act or law conferring summary powers to convict for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health, and any other matter made punishable on summary conviction;

Appeal from conviction or order.

To advise justices of the peace at their request.

(g) advise a justice of the peace in respect to criminal offences brought before him for preliminary investigation or for adjudication if he requests him to do so by writing containing a statement of the particular case;

To supply forms for use of justices of the peace.

(h) procure the necessary forms for the use of justices of the peace, and supply the same to acting justices of the peace as needed, in such manner as he deems expedient, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace;

Duties and fees of Crown attorney on admitting persons to bail.

(i) where a prisoner is in custody charged with an indictable offence, and an application is made for bail, inquire into the facts and circumstances upon which the charge is based, and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of all bail bonds entered into before a justice of the peace or magistrate, in case bail is consented to or ordered, for which services he shall be entitled to receive from the person for whom bail is given, in each case, the sum of \$1, and where the prisoner is unable to make such payment the same may be paid in the same manner as other fees of the Crown attorney;

To perform duties to be assigned by regulations in Council.

(j) perform such other duties and services as the Lieutenant-Governor in Council, by regulations prescribes and directs for carrying out the provisions

of any Act imposing duties upon Crown attorney with  
and also touching the office of Crown attorney, or  
the prosecution of criminal offenders;

- (k) advise coroners and attend coroners' inquests, attorney-  
requested by the coroner in writing so to do. <sup>1 officer</sup>  
1927, c. 122, s. 7. <sup>h' in the</sup>  
<sup>7 of such</sup>

8. Where a person is committed for trial or bail and  
answer a criminal charge the justice of the peace commits such  
or bailing shall deliver or cause to be delivered without delay  
to the Crown attorney the informations, depositions, examina-  
tions, recognizances and papers connected with the charge,  
and the Crown attorney shall be the "Proper officer of the  
court by which the accused is to be tried," within the mean-  
ing of section 695 of *The Criminal Code*, and in every case of  
inquisition found before a coroner, the inquisition and every  
recognizance taken before him, with the written information,  
if any, and the depositions and statements, if any, of the  
accused shall be forthwith delivered to the Crown attorney  
of the county or district in which the inquisition has been  
found, and, where an information has been laid or com-  
plaint made before a justice of the peace, whether proceedings  
have been taken thereon or not, the justice shall deliver to the  
Crown attorney all papers connected therewith on being by  
him required so to do. R.S.O. 1927, c. 122, s. 8. <sup>R.S.C. 1927,  
c. 36, s. 695.</sup>

9. In case of the illness or unavoidable absence of the  
Crown attorney, the judge of the county or district court of  
the county or district may appoint a barrister-at-law to act  
for him during his illness or absence, and notice of the ap-  
pointment and of the cause thereof shall be sent to the Pro-  
vincial Secretary, and the Lieutenant-Governor in Council  
may at any time annul the appointment. R.S.O. 1927,  
c. 122, s. 9. <sup>Case of  
unavoidable  
absence or  
illness of  
Crown  
attorney  
provided for.</sup>

(NOTE—See also sections 1044-1047 of the *Criminal Code*  
of Canada. R.S.C. 1927, c. 36.)

10.—(1) For services in the county or district court  
judges' criminal court the Crown attorney shall be entitled to  
the same fees as for like services in the court of general ses-  
sions of the peace. R.S.O. 1927, c. 122, s. 10 (1). <sup>Fees in  
county court  
judges'  
criminal  
court.</sup>

(2) For attendance on appeals from the decision of magis-  
trates under Dominion or Provincial statutes the Crown at-  
torney shall be entitled to a fee of \$15 and actual travelling  
expenses, to be paid by the county or in the case of a district,  
by the province. R.S.O. 1927, c. 122, s. 10 (2); 1929, c. 38,  
s. 2. <sup>Fee of  
Crown  
attorney on  
appeals.</sup>

regul. Every Crown attorney shall be allowed a percentage  
necessn every \$100 of public moneys rightly coming into his  
documt R.S.O. 1927, c. 122, s. 11.

of the .

R.S.O. (1) The Lieutenant-Governor in Council may com-  
e fees payable to a Crown attorney, including the  
ivable from his office as clerk of the peace, for a fixed  
sum. R.S.O. 1927, c. 122, s. 12 (1).

Appeal from  
conviction or  
order.

(2) The annual sum so fixed shall not exceed the average  
net income of the Crown attorney from both offices during  
the next preceding five years except in the case of a Crown  
attorney giving full and exclusive time to the duties of his  
office, in which case the amount to be fixed shall be in the  
discretion of the Lieutenant-Governor in Council. 1929,  
c. 38, s. 3 (1).

Office  
expenses.

(3) When commuting the fees of a Crown attorney, the  
Lieutenant-Governor in Council may provide for a fixed an-  
nual allowance to such Crown attorney to cover the expenses  
of his office.

How  
payable.

(4) The sums fixed under the provisions of this section  
shall be payable out of the amounts voted by the Assembly  
and appropriated by the Legislature for the administration of  
justice in the county or district.

Collection  
and pay-  
ment over  
of fees.

(5) Where the fees of a Crown attorney have been com-  
muted under the provisions of this section it shall be his duty  
to collect all fees payable to him as Crown attorney and  
clerk of the peace, other than those payable by the Province  
either directly or by way of refund to the county, and remit  
the same to the Inspector of Legal Offices by cheque payable  
to the Treasurer of Ontario, quarterly on the 1st day of Janu-  
ary, April, July and October in each year, together with a  
statement showing the fees collected, verified by statutory  
declaration. R.S.O. 1927, c. 122, s. 12 (3-5).

Fees.

(6) Notwithstanding the provisions of subsection 2, the  
Lieutenant-Governor in Council may adjust and add to the  
commutation of any Crown attorney and clerk of the peace  
who has had his fees commuted on or before the 2nd day of  
January, 1929, having regard to the increased fees and  
increased exemptions allowed Crown attorneys since the date  
of commutation. 1929, c. 38, s. 3 (2).

Return  
of fees.

**13.** Every Crown attorney and clerk of the peace shall,  
on or before the 15th day of January in every year, make  
to the Inspector of Legal Offices a return under oath of the



aggregate amount of the fees and emoluments of his <sup>with</sup> during the next preceding year, up to and including the <sup>preme</sup> day of December. R.S.O. 1927, c. 122, s. 13.

**14.**—(1) The Lieutenant-Governor in Council may make regulations for carrying out the provisions of any Act <sup>attorney-</sup> relating to the duties upon Crown attorneys, and also touching the <sup>officer</sup> of Crown attorney, and for the prosecution of offences <sup>in the</sup> against the laws of Ontario or against the criminal law, and may make a tariff of fees and charges to be payable <sup>such</sup> by a Crown attorney for services as such officer not otherwise provided for by this or any other Act. R.S.O. 1927, c. 122, s. 15.

(2) Any counsel fee collected from a defendant under the provisions of *The Summary Convictions Act* shall be credited <sup>Crediting fees collected from defendant.</sup> on any Crown attorney's fees that are properly payable to him by a municipality or any department of the Provincial Government. 1929, c. 38, s. 4. <sup>Rev. Stat., c. 136.</sup>

## PART II.

### TORONTO AND YORK CROWN ATTORNEYS.

**15.** The provisions of this Part shall apply to the City of <sup>Toronto and</sup> Toronto and the County of York. R.S.O. 1927, c. 122, s. 16. <sup>County of York.</sup>

**16.** The Lieutenant-Governor in Council may appoint a <sup>Appoint-</sup> Crown attorney for the City of Toronto and the County of <sup>ment of</sup> York who shall be a barrister-at-law of at least seven years' <sup>Crown</sup> standing at the Bar of Ontario. R.S.O. 1927, c. 122, s. 17. <sup>attorney for</sup> <sup>Toronto and</sup> <sup>York.</sup>

**17.**—(1) The Lieutenant-Governor in Council may ap- <sup>Assistants.</sup> point a barrister-at-law or more than one barristers-at-law to assist the Crown attorney, and on the nomination of the Crown attorney such other officers, clerks, and servants in the office of the Crown attorney as may be deemed necessary by the Lieutenant-Governor in Council.

(2) Every assistant Crown attorney so appointed shall act <sup>Duty of</sup> under the direction and instructions of the Crown attorney, <sup>assistants.</sup> subject to any regulations which may be made under this Act with respect to the duties of the office, and every such assistant when so acting shall have the like powers and duties as the Crown attorney. R.S.O. 1927, c. 122, s. 18.

**18.** Except in the performance of his duties under this Act and the regulations, neither the Crown attorney nor any <sup>Not to</sup> assistant so appointed shall, without the consent of the Lieu- <sup>practise, etc.</sup>

regent-Governor in Council, engage in the practice of his neccession nor carry on any other business or calling, but docurdevote his whole time to the performance of his official of the R.S.O. 1927, c. 122, s. 19.

R.S.O. The Crown attorney shall,—

(a) aid in the local administration of justice and perform the duties by any general Act of Canada or Ontario assigned to Crown attorneys;

Appeal from  
conviction or  
order.

(b) receive and examine all informations, examinations, depositions, recognizances, inquisitions, and papers connected with criminal charges or offences against the laws of Canada or Ontario which the justices of the peace and coroners of the county are required to transmit to him, and where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions at the sittings of the Supreme Court, the court of general sessions of the peace and the county court judges' criminal court may not be unnecessarily delayed or fail through want of proof;

(c) institute and conduct on the part of the Crown prosecutions for crimes and misdemeanours at the sittings of the Supreme Court where no other Crown counsel has been appointed by the Attorney General, and at the court of general sessions of the peace, and the county court judges' criminal court for the county in the same manner as the law officers of the Crown have been used to institute and conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at the court of general sessions of the peace, and the county court judges' criminal court;

(d) watch over the conduct of the magistrates' and juvenile courts and of the court of general sessions of the peace in cases wherein it is questionable whether the conduct complained of is punishable by law or the particular act or omission presents more of the features of a private injury than of a public offence, and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;

(e) deliver to any Crown officer or counsel appointed by

the Attorney-General, all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the Court;

- (f) be present at any court, to which any Crown officer or counsel has been appointed by the Attorney-General, and if required, assist the Crown officer or counsel with the criminal business, and, in the absence of the law officers of the Crown and of such counsel, represent the Crown and take charge and conduct of the criminal business to be done at such sittings;
- (g) in cases where public interest so requires, institute and conduct on the part of the Crown prosecutions before the magistrates of the City of Toronto and the County of York and institute and conduct all other proceedings before any such magistrates or any justice or justices of the peace acting for any such magistrate or magistrates under *The Liquor Control Act* or any other statute of this Province or of the Dominion respecting the sale, transportation, or keeping for consumption of intoxicating liquors or under *The Deserted Wives' and Children's Maintenance Act* or under any Act or law conferring summary powers to convict for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health and any other matter made punishable on summary conviction, whether such prosecutions are instituted by municipal or provincial officers, and the Crown attorney is hereby empowered to institute such proceedings upon a complaint in writing or as public prosecutor in cases where the public interest requires the exercise of such office or the regulations so direct;  
Rev. Stat.,  
c. 294.
- (h) conduct on the part of the Crown all appeals to the county or district court for offences punishable on summary conviction;
- (i) advise any justice of the peace in respect to criminal offences brought before him for preliminary investigation or for adjudication if he requests him to do so by writing containing a statement of the particular case;  
Rev. Stat.,  
c. 211.
- (j) procure the necessary forms for the use of justices of the peace, and supply the same to acting justices of the peace as needed, in such manner as he deems expedient, the expense of which shall be paid out of the county funds as part of the expenses con-

nected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace;

- (k) where a prisoner is in custody charged with an indictable offence, and an application is made for bail, inquire into the facts and circumstances upon which the charge is based, attend upon the hearing of such application and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of all bail bonds in case bail is ordered;
- (l) advise coroners and attend coroners' inquests;
- (m) perform such other duties and services as the Lieutenant-Governor in Council by regulations prescribes and directs for carrying out the provisions of any Act imposing duties upon Crown attorneys and also touching the office of Crown attorney and the prosecution of criminal offenders. R.S.O. 1927, c. 122, s. 20; 1937, c. 72, s. 17 (2).

Salaries.

**20.** The Crown attorney and each of his assistants shall be paid such salary as may from time to time be fixed by the Lieutenant-Governor in Council, and the salaries of the Crown attorney and his assistants and all expenses connected with his office shall be payable out of such moneys as may be appropriated by the Legislature for that purpose. R.S.O. 1927, c. 122, s. 21; 1933, c. 59, s. 15.

Not to  
take fees.

**21.** Neither the Crown attorney nor any assistant of the Crown attorney shall receive for himself or for his office any fees or emoluments whatsoever for anything done or performed by him in pursuance of this Act or of any other Act of Canada or of this Province, and any costs which may be recovered by the Crown attorney or any of his assistants shall belong to and shall be accounted for to the Crown. R.S.O. 1927, c. 122, s. 22.

City to  
provide  
office accom-  
modation.

**22.** The corporation of the City of Toronto shall provide suitable office accommodation, furniture and stationery, with light and heat, for the Crown attorney, his assistants and staff, to be approved by the Attorney-General, and the expenses so incurred shall be borne and apportioned and paid as part of the expenses of the administration of justice in the County of York. R.S.O. 1927, c. 122, s. 23.

Ss. 3, 4, 5, 8,  
9 and 14 to  
apply to  
Crown  
attorney  
appointed  
under this  
Part.

**23.** Sections 3, 4, 5, 8, 9 and 14 only of Part I shall apply to a Crown attorney appointed under this Part. R.S.O. 1927, c. 122, s. 24; 1937, c. 72, s. 17 (3).



## CHAPTER 138.

## The Coroners Act.

## INTERPRETATION.

1. In this Act "coroner" shall include associate coroner. "Coroner." R.S.O. 1927, c. 123, s. 1.

## PART I.

## APPOINTMENT OF CORONERS.

## GENERALLY.

2.—(1) The Lieutenant-Governor in Council may appoint one or more coroners for the whole or any part of every county, city, town, provisional judicial district and provisional county, and may appoint a chief coroner for each county, provisional judicial district and provisional county. R.S.O. 1927, c. 123, s. 2 (1); 1936, c. 12, s. 2.

Appoint-  
ment of  
coroners  
generally.

(2) The Lieutenant-Governor in Council may appoint a coroner who shall have jurisdiction throughout the Province and shall act in an advisory capacity to coroners generally and shall have such powers and perform such duties with respect to the office of coroner throughout the Province as the Lieutenant-Governor in Council may prescribe. 1931, c. 31, s. 2.

Supervising  
coroner,—  
appoint-  
ment of.

(3) Subsection 1 shall not apply to the Cities of Toronto or Hamilton. Exception.

(4) Notwithstanding anything contained in the commission of a coroner, the Attorney-General may in writing, signed by him, direct a coroner appointed for any part of Ontario (including a chief coroner or coroner for the City of Toronto or the City of Hamilton), to act in any other part of Ontario, and any coroner to whom such direction is given shall have the same jurisdiction and powers within the territory in which he is so directed to act as a coroner appointed under subsection 1 for the same territory. Conferring  
extra juris-  
diction on  
coroners.

Magistrate  
acting as  
coroner.

(5) At the request of the Attorney-General or Crown attorney for the district, every magistrate in a provisional judicial district shall have power to conduct an inquest within his territorial jurisdiction upon the body of any person whose death has apparently been caused by violence or by unfair means, or in consequence of culpable or negligent conduct of others, or under such circumstances as require investigation, and shall for such purpose have all the power given by law to coroners. R.S.O. 1927, c. 123, s. 2 (2-4).

#### SPECIAL PROVISIONS AS TO THE CITIES OF TORONTO AND HAMILTON.

Chief  
coroners for  
Toronto and  
Hamilton.

**3.—(1)** The Lieutenant-Governor in Council may appoint a coroner to be called the Chief Coroner for the City of Toronto and a coroner to be called the Chief Coroner for the City of Hamilton and such number of associate coroners in each city as may be deemed proper.

Associate  
coroners.

(2) An associate coroner, subject to such regulations as the Lieutenant-Governor in Council may prescribe, shall perform all the duties and exercise all the powers of a coroner.

Powers of  
coroners and  
associates  
appointed  
for York and  
Wentworth.

(3) Except the chief coroner, every coroner and associate coroner appointed for the County of York, including the City of Toronto, and for the County of Wentworth, including the City of Hamilton, shall have, exercise and perform within the City of Toronto and within the City of Hamilton respectively only such powers and duties as are assigned by the regulations to an associate coroner.

Salary of  
chief  
coroner.

Toronto.  
Hamilton.

(4) Each of the said chief coroners shall be paid in lieu of all fees by the corporation of the city half-yearly such salary as may be fixed by the Lieutenant-Governor in Council and the corporation of the City of Toronto and the corporation of the City of Hamilton shall be respectively reimbursed out of the Consolidated Revenue Fund to the extent of one-half such respective salaries. R.S.O. 1927, c. 123, s. 3.

#### NOTICE OF APPOINTMENT.

Appoint-  
ment to be  
filed.

Imp. 50-51,  
V., c. 71,  
s. 12 (3).

**4.** A copy of the Order-in-Council appointing a coroner shall be sent to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office. R.S.O. 1927, c. 123, s. 4.

## TRAVELLING AND OFFICE EXPENSES.

5. In addition to the fees provided for by this Act, all reasonable and necessary travelling and other expenses incurred by the coroner and the cost of supplying the coroner's office with necessary postage, forms and stationery, shall be payable by the municipal corporation. 1931, c. 31, s. 3.

Travelling expenses, postage, forms, etc.

## PART II.

## INQUEST ON DEATH.

## DISQUALIFICATION OF CORONER.

6. A coroner shall not conduct an inquest upon the body of any person whose death has been caused at or on a railway, mine or other work, whereof he is the owner, or part owner, or which is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant or in any other capacity by the owner thereof, or under any agreement or understanding, direct or indirect, with the employees at or on such work. R.S.O. 1927, c. 123, s. 5.

When coroner disqualified.

## DUTY OF CORONER ON INFORMATION OF DEATH.

7.—(1) Every practitioner, undertaker or embalmer and every person occupying a house in which a deceased person was residing, who has reason to believe that the deceased died as a result of violence, or misadventure, or by unfair means or from any cause other than disease, or as a result of negligence or misconduct or malpractice on the part of others, or under such circumstances as require investigation, shall immediately notify a coroner having jurisdiction in the place where the body of the deceased person is, of the facts and circumstances relating to the death. R.S.O. 1927, c. 123, s. 6 (1); 1931, c. 31, s. 4 (1).

Duty as to giving information to coroner.

(2) The notice required by subsection 1 shall be given in every case where such practitioner, undertaker or embalmer or occupant is aware that the deceased had been suffering from disease or sickness and had not been treated or attended by a duly qualified medical practitioner. R.S.O. 1927, c. 123, s. 6 (2).

Where no medical attendance.

(3) Where a coroner is informed that there is within his jurisdiction the body of a deceased person and that there is reason to believe that the deceased died as a result of violence

Warrant for possession of body.

or misadventure or by unfair means or from any cause other than disease or as the result of negligence or misconduct or malpractice on the part of others or under such circumstances as require investigation, he shall immediately communicate to the chief coroner having jurisdiction where the body is located, all information and particulars of which he is possessed respecting such body and death, and the chief coroner shall issue his warrant to take possession of the body and shall view the body and make such further inquiry as may be required to satisfy himself whether or not an inquest is necessary, or he shall direct one of the coroners having jurisdiction in the place where the body is located to do all such acts, provided that where, owing to the death, illness or absence from the jurisdiction of the chief coroner, it is impracticable to communicate with him, or where no chief coroner has been appointed, the coroner who has received such information shall issue his warrant to take possession of the body and shall do all such further acts as are reasonably necessary pending communication, when practicable, with the chief coroner. 1936, c. 12, s. 3.

Employing  
experts.

(4) The coroner may, with the sanction of the Crown attorney, employ experts to assist him in the inquiry. R.S.O. 1927, c. 123, s. 6 (4); 1931, c. 31, s. 4 (2).

Jurisdiction.

(5) After the issue of such warrant no other coroner shall issue a warrant or interfere in the case, except under the instructions of the Attorney-General or the Crown attorney. R.S.O. 1927, c. 123, s. 6 (5).

(NOTE—*No burial permit shall be given and embalming shall not take place without coroner's permission. See Vital Statistics Act, Rev. Stat., c. 88).*

Warrant for  
inquest.

8. If, after making such inquiry, the coroner deems it necessary that an inquest should be held, he shall issue his warrant for the holding of an inquest, and shall forthwith transmit to the Crown attorney a statutory declaration, setting forth briefly the result of such inquiry, and the grounds upon which he deems it necessary that an inquest should be held. R.S.O. 1927, c. 123, s. 7.

Death due  
to events  
occurring  
beyond  
jurisdiction.

9. Where the death is believed to be the result of violence, misadventure or other matters occurring at a place beyond the jurisdiction of the coroner, he shall issue his warrant to take possession of the body as provided in section 7, and shall view the body and make such further inquiry as may be required to satisfy himself whether or not an inquest is necessary and if he finds that an inquest is necessary he may, with the



consent of the Crown attorney, at any time during the course of the proceedings transfer the inquest to the coroner having jurisdiction at such place and the inquest shall be conducted by such coroner as though the death had taken place in his jurisdiction and he had issued the warrant; but the coroner issuing the warrant may take evidence to prove the fact of death, the identity of the body and the *post mortem* examination of the body, and such evidence shall be transmitted to and received by the coroner holding the inquest as part of the proceedings before him. 1931, c. 31, s. 5.

**10.**—(1) If, after viewing the body and making such inquiry, the coroner deems an inquest unnecessary he shall issue his warrant to bury the body, and shall forthwith transmit to the Crown attorney a statutory declaration, setting forth briefly the result of such inquiry and the grounds on which the warrant has been issued, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by *The Vital Statistics Act*.

Warrant for burial where coroner deems inquest unnecessary.

Rev. Stat., c. 88.

(2) Notwithstanding such declaration, the Attorney-General or the Crown attorney may direct the coroner making the same, or some other coroner having jurisdiction, to hold an inquest upon the body, and the coroner to whom such direction is given shall forthwith issue his warrant for an inquest and hold the same accordingly. R.S.O. 1927, c. 123, s. 9.

Power of Crown to direct inquest.

**11.** If the coroner declares an inquest to be unnecessary, and an inquest is not held by him, he shall be entitled for his services to a fee of \$5 and mileage at the rate of fifteen cents per mile for every mile necessarily travelled by him, and such fee and mileage shall be paid in the same manner and upon the same conditions as the fees of a coroner in a case in which an inquest is held. R.S.O. 1927, c. 123, s. 10; 1931, c. 31, s. 6.

Fees of coroner when inquest not held.

#### WHEN INQUEST COMPULSORY.

**12.** Where the death of any person appears to have been caused in the construction or operation of any railway, street railway or electric railway the Crown attorney, subject to the provisions of section 6, shall direct a coroner having jurisdiction in the locality to hold an inquest upon the body of the person so dying, and the coroner shall issue his warrant and hold an inquest accordingly. R.S.O. 1927, c. 123, s. 11.

Accidents on railways and street railways operated on or over highways.

(NOTE—As to deaths in mines, see *The Mining Act*, Rev. Stat., c. 47.)

Power of coroner to take charge of wreckage.

**13.**—(1) Where a coroner has ordered an inquest upon the body of a person who has met death by violence in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine, apparatus or railway train, the coroner may take charge of all wreckage and place a constable or constables in charge thereof so as to prevent persons from disturbing such wreckage until the jury at the inquest has viewed the same, or the coroner where there is no jury has made such examination as he deems necessary. R.S.O. 1927, c. 123, s. 12 (1); 1931, c. 31, s. 7 (1).

Special constables.

(2) The coroner shall have power to swear in such special constables as may be necessary for such purposes.

View by jury or coroner.

(3) The jury or coroner as the case may be shall view such wreckage at the earliest moment possible. R.S.O. 1927, c. 123, s. 12 (2, 3).

Interfering with wreckage.

(4) Where a death has occurred in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine, apparatus or railway train every person who, except for the purpose of saving life or relieving human suffering, without authority from the coroner, interferes with, destroys or carries away, or alters the position of such wreckage or any part thereof, or anything in any way connected therewith, shall incur a penalty of not less than \$25 nor more than \$100, and where it appears that the offence was committed wilfully and with the intention of making away with or destroying evidence, the person committing such offence shall be liable to imprisonment for a period not exceeding six months. 1931, c. 31, s. 7 (2).

Death in house of refuge or house of industry.

**14.**—(1) Where an inmate of a house of refuge or house of industry dies, the superintendent, or other officer in charge, shall immediately give notice of such death to the Crown attorney.

Order of Crown attorney for inquest.

(2) On receipt of such notice the Crown attorney shall inquire into the facts and if, as a result of such inquiry, he is of opinion that such death took place under circumstances requiring an investigation, he shall direct a coroner having jurisdiction to hold an inquest upon the body of the deceased person, and the coroner shall issue his warrant, and hold an inquest accordingly. R.S.O. 1927, c. 123, s. 13.

Death of prisoner.

**15.** Where a prisoner in a gaol, prison, house of correction, reformatory or lock-up dies, the warden, gaoler, keeper or superintendent thereof shall immediately give notice of such

death to the coroner, and the coroner shall issue his warrant, and hold an inquest upon the body. R.S.O. 1927, c. 123, s. 14.

POWERS AND DUTIES OF CROWN ATTORNEY OR COUNSEL  
FOR ATTORNEY-GENERAL.

**16.**—(1) Every coroner, before holding an inquest, shall notify the Crown attorney of the time and place of holding the same, and the Crown attorney may, and if directed by the Attorney-General shall, attend the inquest and may examine or cross-examine the witnesses thereat, and the coroner shall summon such witnesses as the Crown attorney directs. Notice to Crown attorney.

(2) The Attorney-General may be represented by counsel at any inquest, and such counsel shall have the same powers as the Crown attorney has under subsection 1. R.S.O. 1927, c. 123, s. 15. Special counsel for Attorney-General.

WITNESS FEES AND MILEAGE.

**17.** Every person who attends an inquest on summons, or on the request of the Crown attorney, to give evidence, or who gives evidence, shall be entitled to \$1 for every day of such attendance, and mileage, at the rate of fifteen cents per mile for each mile necessarily travelled from his last place of residence to the place where the inquest is held, one way, and the amount payable to witnesses shall be certified by the coroner, who shall make his order for the payment thereof. R.S.O. 1927, c. 123, s. 16. Witnesses at inquest.

**18.**—(1) The coroner may grant to any person who attends and gives evidence at his instance, such sum in addition to ordinary witness fees as he may deem reasonable and sufficient to compensate the witness for preparing a plan, furnishing any article or doing any work for use at the inquest, for his costs and charges in preparing such plan, furnishing such article or doing such work, and upon the fiat of the Attorney-General may direct the payment of a special fee to an expert witness. Fees for special services.

(2) Such costs and expenses or special fee shall be borne and paid in the same manner as the other expenses of holding an inquest. 1931, c. 31, s. 8. How costs, etc., to be borne and paid.

MEDICAL WITNESSES AND POST MORTEM.

**19.**—(1) The coroner may, at any time before the termination of the inquest, by his warrant, direct a *post mortem* Ordering post mortem.

examination to be made by a legally qualified medical practitioner, with or without an analysis of the contents of the stomach and intestines.

When consent of Crown attorney to *post mortem* required.

(2) A *post mortem* examination shall not be made without the consent in writing of the Crown attorney unless an inquest is actually held.

Report of *post mortem*.

(3) Every legally qualified medical practitioner making a *post mortem* examination shall make a report thereon in writing upon a form approved by the Lieutenant-Governor in Council which shall be supplied by the coroner.

Fees not to be paid unless report made.

(4) No fees shall be paid to a legally qualified medical practitioner for a *post mortem* examination unless such report is made and contains the particulars required by the form or satisfactorily accounts for their absence. R.S.O. 1927, c. 123, s. 17; 1937, c. 72, s. 16.

Expert witnesses.

**20.** The coroner may, with the sanction of the Crown attorney, summon one or more, but not exceeding three, persons for the purpose of giving expert evidence, and any person so summoned shall be paid for his attendance in addition to his actual travelling expenses such fees as the coroner may certify to be reasonable, not exceeding \$15 a day, and such fees and expenses shall be paid on the order of the coroner in the same manner as the other expenses of witnesses. R.S.O. 1927, c. 123, s. 18.

Calling medical attendant of deceased.

**21.**—(1) The coroner may issue his warrant for the attendance before him or at the inquest of the legally qualified medical practitioner, if any, who attended the deceased at his death, or during his last illness, or of any other legally qualified medical practitioner, in or near the place where the death occurred, but he shall not without the consent of the Crown attorney order the attendance of more than one medical practitioner in addition to the medical practitioner making the *post mortem* examination. R.S.O. 1927, c. 123, s. 19 (1); 1931, c. 31, s. 9 (1).

Imp., 50-51, V. c. 71, s. 21 (1).

Fees of medical witness.

(2) A legally qualified medical practitioner shall be entitled for each attendance in obedience to any such order to \$5 and mileage at the rate of fifteen cents per mile for every mile necessarily travelled, and for a *post mortem* examination without an analysis of the contents of the stomach or intestines he shall be entitled to a fee of \$15, and if with such analysis to an additional fee of \$25. R.S.O. 1927, c. 123, s. 19 (2); 1931, c. 31, s. 9 (2).

When *post mortem* is held.



(3) The number of miles so travelled shall be proved by the statutory declaration of the medical practitioner. R.S.O. 1927, c. 123, s. 19 (3). Proving mileage.

#### JURY.

**22.**—(1) The number of jurymen to be summoned to serve on an inquest shall be not less than seven nor more than twelve. Number of jurors to be summoned.

(2) An inquisition may be found by a majority of the jurors sworn. R.S.O. 1927, c. 123, s. 20. And to find inquisition.

**23.** Where an inquest is held in a provisional judicial district the coroner may, with the consent of the Crown attorney, hold the inquest without a jury. R.S.O. 1927, c. 123, s. 21. Inquest without jury in district.

**24.** A person shall not be qualified to serve as a juror unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror. R.S.O. 1927, c. 123, s. 22. Qualification of jurors.

**25.** An officer, employee or inmate of a house of refuge, house of industry, hospital, mental hospital, or charitable institution, gaol, prison, house of correction, reformatory or lock-up, shall not be qualified to serve as a juror at an inquest upon the body of any person whose death occurred therein. R.S.O. 1927, c. 123, s. 23. Disqualification.

**26.**—(1) Every juror serving at an inquest shall be entitled to \$1 for every day upon which such inquest is held and is continued for not more than four hours, and where the time occupied by an inquest on any day exceeds four hours \$1 in addition for each such day, and mileage at the rate of fifteen cents per mile for each mile necessarily travelled from his place of residence to the place where the inquest is held. R.S.O. 1927, c. 123, s. 24 (1); 1931, c. 31, s. 10. Fees of jurors.

(2) Subject to the provisions of section 29, the amount to be paid to jurors shall be certified by the coroner, who shall make his order for payment thereof. R.S.O. 1927, c. 123, s. 24 (2). Order of coroner for payment.

**27.** It shall not be necessary for a jury to view the body upon which an inquest is being held when the coroner, with the consent of the Crown attorney, directs that the viewing of the body shall be dispensed with, but where the consent of the Crown attorney is given verbally he shall as soon as convenient confirm the same in writing to the coroner. R.S.O. 1927, c. 123, s. 25; 1931, c. 31, s. 11. View of body may be dispensed with.

## PAYMENT OF EXPENSES.

Expenses  
of inquest.

**28.** The coroner shall give to every person entitled to fees, charges, mileage or other expenses in connection with an inquest an order on the treasurer of the county, or of the city or separated town in which an inquest is held, or in the case of an inquest in a provisional judicial district (save where held in a city) upon the treasurer of the district, for the payment thereof, and upon presentation of the order the treasurer shall pay the amount named therein. R.S.O. 1927, c. 123, s. 26.

EXPENSES OF INQUEST WHEN CAUSE OF DEATH TAKES PLACE  
OUTSIDE CITY OR TOWN.

Payment of  
expenses of  
certain  
inquests in  
city or  
separated  
town.

**29.** Where an inquest is held upon the body of a person who has died in a county, city or separated town, and the jury find that the cause of death did not arise within such county, city or town, the coroner shall make an order for the payment of the fees, charges and expenses in connection with such inquest on the treasurer of the county, city or town in which the inquest is held, who shall thereupon pay the same, and the amount so paid shall, on demand, be repaid by the treasurer of the county, city or separated town in which the matter causing the death is found to have arisen or taken place. R.S.O. 1927, c. 123, s. 27.

## ANNUAL RETURNS.

Return to  
Attorney-  
General.

**30.—(1)** Every coroner shall on or before the 15th day of January in each year make a return to the Attorney-General for the year ending on the 31st day of December next preceding, containing,—

- (a) every case in which after investigation by him an inquest was deemed unnecessary; and
- (b) every case in which an inquest was held by him, with the findings of the jury thereon.

Particulars  
in return.

(2) The return shall as far as possible show the name, place of residence and occupation of the deceased, the place of death, and the cause of death as found by the coroner on such investigation, or by the jury at the inquest.

Form of  
return.

(3) The return shall be in the form prescribed by the Lieutenant-Governor in Council which shall be furnished to all coroners. R.S.O. 1927, c. 123, s. 28.

## FEES OF CORONERS.

**31.**—(1) The fees and expenses to be allowed and paid to a coroner holding an inquest upon a death shall be those set forth in Schedule A, and shall be payable, in the first instance, by the city or county, and the city or county shall be recouped for the same out of the Consolidated Revenue Fund.

Coroner's fees.

(2) On the recommendation of the Attorney-General an additional allowance may be made to a coroner holding an inquest, where in the opinion of the Attorney-General such fees are an insufficient remuneration, having regard to the difficulties of travelling and other special circumstances. R.S.O. 1927, c. 123, s. 29.

Additional allowance to coroners.

(3) Where a city or county is entitled to be recouped out of the Consolidated Revenue Fund for fees and expenses paid to a coroner under this Act, all accounts therefor shall be audited and approved by the County Board of Audit appointed under *The Administration of Justice Expenses Act* in the manner provided for in such Act with respect to other accounts. 1932, c. 53, s. 12, *part*.

Coroner's accounts to be approved by County Board of Audit.

Rev. Stat., c. 141.

## PART III.

## PROVINCIAL CORONERS.

**32.**—(1) The Lieutenant-Governor in Council may appoint provincial coroners, each of whom shall be by virtue of his appointment a coroner for every county, provisional county and provisional judicial district for the purpose of,—

Appointment of provincial coroners for investigation of certain offences against property.

(a) holding fire inquests;

(b) holding investigations in cases of maiming or suspected poisoning of horses, cattle and other domestic animals; and

(c) holding an investigation in any case in which there is in his opinion reason to believe that property has been destroyed or damaged by the wilful or malicious use of explosives.

(2) Except where otherwise expressly provided a provincial coroner when holding an inquest or investigation shall have all the powers of a coroner.

Powers.

Fire  
inquests by  
provincial  
coroner.

(3) Where a fire has occurred whereby any building or any moveable property has been wholly or in part consumed or damaged, and it appears to a provincial coroner that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as require investigation, he may hold an inquest as to the cause or origin of the fire, and may summon a jury for that purpose, or may dispense with a jury as he may deem expedient.

Material  
upon which  
coroner  
to act.

(4) Where a provincial coroner within whose jurisdiction a fire has occurred, whereby any building, or any moveable property, has been wholly or in part consumed or damaged, receives,—

- (a) a requisition in writing signed by the agent of an insurance company setting forth the facts as far as known, and stating that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as, in the interests of justice and for the due protection of property, require investigation, and requiring the coroner to hold an inquiry into the cause and origin of the fire, together with a statutory declaration that the statements made in the requisition are true to the knowledge of the person making the declaration; or
- (b) a resolution passed by the council of the city, town, village or township in which the fire took place, that there are strong special and public reasons why an investigation should be held into the cause and origin of the fire and stating such reasons; and
- (c) an undertaking, on the part of the insurance company or council, to pay the expenses of the inquiry,

he may, with the consent of the Attorney-General or the Crown attorney, issue his warrant for summoning not less than seven nor more than twelve of the householders resident in the vicinity of the fire to hear the evidence that may be adduced concerning the same, and to render a verdict under oath according to the facts, or he may hold the inquest without a jury.

Holding  
inquest  
without  
requisition.

(5) A provincial coroner with the consent of the Attorney-General may hold an inquest or investigation without receiving any requisition and the expense of and incidental to such investigation shall be borne and paid in the same manner as in



the case of an inquest upon the body of a deceased person.  
R.S.O. 1927, c. 123, s. 30.

#### FEES OF CORONER.

**33.** Where an inquest is held by a provincial coroner in respect of a fire the provincial coroner shall be entitled to the sum of \$10, and should the inquiry extend beyond one day, then to \$10 *per diem* for each of two days thereafter and no more. R.S.O. 1927, c. 123, s. 31. Fees of coroner.

#### PAYMENT OF EXPENSES.

**34.** The insurance company or municipal council requiring the inquest shall alone be responsible for the expenses of and attending the same, and the fees, mileage and other charges shall be certified by the provincial coroner, who shall give his order in writing upon the company or the treasurer of the municipality, as the case may be, for payment thereof to the persons entitled thereto, and the same shall be payable accordingly. R.S.O. 1927, c. 123, s. 32. Responsibility for expenses.

**35.** The expenses consequent upon an adjournment of an inquest shall not be chargeable against or payable by the insurance company or municipal council requiring the investigation unless the provincial coroner has verified under his hand why and for what purpose in his opinion an adjournment took place or became necessary. R.S.O. 1927, c. 123, s. 33. When costs of adjournment shall be allowed.

#### WHO TO BE PARTIES TO INVESTIGATION.

**36.—(1)** A director or officer of any fire insurance company interested, or the assured, or any person claiming under a policy of insurance, or any person prejudicially affected by any of the evidence adduced may attend personally or by counsel any investigation held under this Part as party thereto, and may, with the provincial coroner's consent, examine, cross-examine or re-examine witnesses, as the case may be. Who to be parties.

(2) The provincial coroner shall summon such witnesses as he may deem necessary and as may be required by any party to the investigation. R.S.O. 1927, c. 123, s. 34. Summoning witnesses.

#### DISQUALIFICATIONS.

**37.** A provincial coroner who is a director or officer of the insurance company, or who is interested in any way, shall Disqualification of coroner for interest.

not hold an investigation under this Part, nor shall any such director or officer or any other interested person act for the coroner as clerk, reporter or otherwise in taking down or recording the depositions or evidence. R.S.O. 1927, c. 123, s. 35.

## PART IV.

### GENERAL PROVISIONS.

#### APPLICATION.

Application  
of Part IV.

**38.** This Part shall apply to every inquest and investigation held by a coroner or by a provincial coroner under the authority of this Act or of any other Act or law in force in Ontario. R.S.O. 1927, c. 123, s. 36.

Powers of  
coroners.

**39.**—(1) In addition to any other powers which he may possess a coroner shall have the same power to issue summonses to witnesses, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court.

Fine for non-  
attendance.

(2) A fine imposed for non-attendance or refusal to give evidence shall not, in the case of a medical practitioner, exceed \$40, and in the case of any other witness shall not exceed \$10. R.S.O. 1927, c. 123, s. 37.

Taking  
evidence in  
shorthand.

**40.**—(1) The evidence upon an inquest or any part of it, with the sanction of the Crown attorney, may be taken in shorthand by a stenographer who may be appointed by the coroner, and who before acting shall make oath that he will truly and faithfully report the evidence, and where evidence is so taken it shall not be necessary that it be read over to or signed by the witness, but it shall be sufficient if the transcript is signed by the coroner and is accompanied by an affidavit of the stenographer that it is a true report of such evidence.

Payment of  
fees of  
stenog-  
rapher.  
Rev. Stat.,  
c. 102.

(2) The fees payable to stenographers for services rendered shall be upon the scale appointed for stenographers under *The County Judges Act* and shall be certified by the coroner and paid in the same manner as witness fees.

When  
approval of  
Crown  
attorney un-  
necessary.

(3) The sanction of the Crown attorney to the employment of a stenographer shall not be necessary in the case of an inquest held by a provincial coroner, or in the case of a fire inquest where one of the parties thereto in writing requests

the coroner to employ a stenographer and agrees to pay the extra charges occasioned thereby. R.S.O. 1927, c. 123, s. 38.

**41.**—(1) A coroner may and if required by the Crown <sup>Interpreter,</sup> attorney shall employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest.

(2) An interpreter shall be paid for his attendance and <sup>Fees, how</sup> services such fees as may be fixed by the provincial coroner, <sup>payable.</sup> or by the coroner with the approval of the Crown attorney. R.S.O. 1927, c. 123, s. 39.

#### PENALTY ON JUROR FOR NON-ATTENDANCE.

**42.** Where a person duly summoned to serve as a juror <sup>Juror not</sup> does not attend the coroner may impose upon him a fine not <sup>attending,</sup> exceeding \$4. R.S.O. 1927, c. 123, s. 40. <sup>fine.</sup>

**43.**—(1) Where a coroner conducts an inquest in viola- <sup>Coroner</sup> tion of the provisions of section 6 he shall incur a penalty of <sup>holding</sup> not less than \$100 nor more than \$500, to be sued for and <sup>inquest when</sup> recovered by anyone in any court of competent jurisdiction. <sup>disqualified</sup> <sup>by interest.</sup> <sup>Penalty.</sup>

(2) It shall be sufficient for the plaintiff in any such action <sup>Form of</sup> to allege that the defendant is indebted to him in the sum <sup>claim for</sup> claimed and the particular inquest for which the action is <sup>penalty.</sup> brought and that the defendant has acted in violation of this Act.

(3) The action shall be commenced within one year next <sup>Limitation.</sup> after the inquest was held and not afterwards and shall be tried by a judge without a jury. R.S.O. 1927, c. 123, s. 41.

#### RECOVERY OF FINES.

**44.** Where a fine is imposed by a coroner under this Act <sup>Estreating</sup> he shall thereupon make out and sign a certificate stating the <sup>finer.</sup> name, residence and occupation of the delinquent, the amount of the fine imposed and the cause of the fine, and shall transmit such certificate to the clerk of the peace of the county or district in which the delinquent resides on or before the first day of the general sessions of the peace then next ensuing, and the fine so certified shall be estreated, levied and applied in like manner and upon the subject to the like powers, provisions and penalties as if it had been a fine imposed at the general sessions. R.S.O. 1927, c. 123, s. 42.

## RETURN OF INQUISITION.

Return of  
inquisition.

**45.** Every coroner shall forthwith, after an inquisition found by or before him, return the verdict or finding of the jury or of the coroner and every recognizance taken before him, with the evidence and exhibits, to the Crown attorney. R.S.O. 1927, c. 123, s. 43.

## COURT ROOM FOR INQUEST.

Accommo-  
dation for  
inquest.

**46.**—(1) The corporation of every city and town shall provide a suitable place for the holding of inquests, and until it is provided for that purpose, inquests may be held in the magistrate's court room of the municipality, but at such times as shall not interfere with the use of such court room for the holding of the magistrate's court.

Coroner  
may procure  
room in  
default of  
council.

(2) If a suitable place is not provided by the corporation the coroner may procure a suitable place for holding the inquest and the expense incurred shall be borne by the corporation. R.S.O. 1927, c. 123, s. 44.

## RECOVERY OF PENALTIES.

Recovery of  
penalties.  
Rev.,  
c. 136.

**47.** The penalties imposed under this Act shall be recoverable under *The Summary Convictions Act*. 1932, c. 53, s. 13.

## FORMS.

Forms.

**48.** Forms for the carrying out of the provisions of this Act may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 123, s. 45.

## SEALS.

Seal not  
necessary.

**49.** In all proceedings under this Act it shall not be necessary for any coroner or other person to attach or affix any seal to any inquisition, document or process, and no inquisition, document or process shall be invalidated by reason of the lack of a seal even though the inquisition, document or process purports to be sealed. 1931, c. 31, s. 12.

(NOTE—For special provisions as to coroners when acting under *The Sheriffs Act*, see *Rev. Stat.*, c. 17.

As to fatal accidents in mines, see *The Mining Act*, *Rev. Stat.*, c. 47.



*As to expenses see Administration of Justice Expenses Act. Rev. Stat., c. 141.*

*As to coroners duty in cases of murder or manslaughter see Criminal Code, sec. 667, and as to his duty when an offender is executed see Criminal Code, sec. 1070.)*

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SCHEDULE A.

(a) Impanelling a jury.....	\$2.00
(b) Examining each witness (including summons).....	.50
(c) Taking each recognizance.....	.50
(d) Necessary travel per mile.....	.15
When by railway, per mile.....	.10
(e) Taking inquisition and making return.....	10.00
(f) Every warrant.....	1.00
(g) Order for the payment of jurors.....	1.00

R.S.O. 1927, c. 123, Sched. A; 1931, c. 31, s.13.

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## CHAPTER 139.

## The Dominion Commissioners of Police Act.

Powers of  
Dominion  
Commissioners of  
Police.  
R.S.C.  
1906, c. 92.

1. The Lieutenant-Governor in Council may authorize any commissioner of police appointed under *The Dominion Police Act* to act within Ontario, to exercise within the territory named in his commission all the powers, authority, rights and privileges appertaining to a magistrate and to justices of the peace generally. R.S.O. 1927, c. 124, s. 1.

Qualification  
of Com-  
missioners.

2. It shall not be necessary for a commissioner of police to possess any property qualification or to be actually resident within the territorial division for which he is appointed, or to take or subscribe any oath of allegiance or of office. R.S.O. 1927, c. 124, s. 2.

Constables.

3. Every constable appointed by a commissioner of police shall have all the powers, authority, rights and privileges and shall be charged with the duties and responsibilities appertaining to a constable appointed in Ontario, but shall not have power or authority in respect of any purely municipal matter or offences against municipal by-laws. R.S.O. 1927, c. 124, s. 3.

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## CHAPTER 140.

## The Constables Act.

## INTERPRETATION.

## 1. In this Act,—

- (a) "County" shall include district; "County."
- (b) "County court" shall include district court. R.S.O. "County court,"  
1927, c. 125, s. 1.

## PART I.

## CONSTABLES AND HIGH CONSTABLES.

*Appointment by General Sessions.*

2. The court of general sessions of the peace, at any sit- Appoint-  
tings or adjourned sittings but not at a special sittings, may ment of  
appoint a sufficient number of fit and proper persons to be constables.  
constables for the county, and may, in like manner, dismiss Dismissal.  
any constable so appointed. R.S.O. 1927, c. 125, s. 2.

3. Every constable so appointed, and having taken the Continu-  
oath, shall continue in office at least one year, and thereafter ance in  
from year to year without reappointment, unless he claims office.  
exemption from serving, in which case he shall be released at  
any time after the end of the first year. R.S.O. 1927, c. 125,  
s. 3.

*Appointment by County Judge.*

4.—(1) In the intervals between the sittings of the courts Appoint-  
of general sessions of the peace, the judge of the county court ment of  
may appoint one or more constables for the county. constables  
by county  
court judges.

(2) The judge shall forthwith notify the clerk of the peace Clerk of the  
of the appointment. peace to be  
notified.

(3) The clerk of the peace shall report every such appoint- Clerk to  
ment to the court of general sessions of the peace at the report to the  
sittings holden next after he receives such notice, and, unless general  
sessions.

at such sittings the appointment is revoked, the same shall continue as if it had been made by such court. R.S.O. 1927, c. 125, s. 4.

*Appointment by Magistrates.*

Certain magistrates may appoint temporary constables.

5.—(1) A salaried county or district magistrate may appoint a constable for the county or district of which he is a magistrate to hold office for not more than thirty days.

Notice of appointment.

(2) The magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

Revocation.

(3) The appointment may be revoked by the magistrate, or by the Provincial Secretary before the expiration of the thirty days. R.S.O. 1927, c. 125, s. 5.

Constables to be sworn.

6. Every constable shall before entering on the duties of his office take, subscribe and deposit with the clerk of the peace the following oath,—

The oath.

I, \_\_\_\_\_, having been appointed Constable for \_\_\_\_\_, do swear that I will truly, faithfully and impartially perform the duties appertaining to the said office, according to the best of my skill and ability: So help me God.

Sworn, etc.

A. B.

R.S.O. 1927, c. 125, s. 6.

Constable to be county constable.

7. Every constable appointed by the authority of this Act shall be a county constable. R.S.O. 1927, c. 125, s. 7.

*High Constable.*

High constable appointed by counties to continue in office.

8.—(1) Every high constable appointed by the municipal council of any county, who is in office on the 24th day of June, 1929, shall continue to hold office as a high constable during the pleasure of the council or until he resigns or until there is a vacancy in the office through any cause.

High constables,—remuneration of.

(2) Every high constable shall be paid by the county such remuneration by salary or otherwise, be allowed by the county such sums for expenses, and be supplied by the county with such arms, accoutrements, clothing and other necessities as may be prescribed by the regulations made under this Act.

Appointment by Lieutenant-Governor in Council.

(3) In any county, in which there is no high constable in office on the 24th day of June, 1929, and in any county in which a vacancy occurs in that office after the said date, and



in any other county when the office of high constable becomes vacant, the Lieutenant-Governor in Council may appoint an officer for such county or one or more counties, who shall be vested with all the powers and perform all the duties of a high constable under the provisions of this Act, and be subject to suspension as hereinafter provided by this Act..

(4) Any officer appointed under subsection 3, shall be paid out of such sums as may from time to time be appropriated by the Legislature of the Province of Ontario, such salary as may be determined by the Lieutenant-Governor in Council. 1929, c. 39, s. 2.

Remuneration when appointed under subs. 3.

**9.**—(1) Every person appointed to be a high constable shall before entering on the duties of his office, take and subscribe the following oath,—

Oath of high constable.

I, \_\_\_\_\_, do swear that I will well and truly serve Our Sovereign Lord the King in the office of High Constable for the county (or united counties) of \_\_\_\_\_ without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God.

Form of oath.

Sworn, etc.

*C. D.*

R.S.O. 1927, c. 125, s. 10 (1).

(2) The oath, together with a copy of the by-law under which a high constable has been appointed, shall be deposited in the office of the clerk of the peace of the county for which he has been appointed, and the oath of every officer appointed after the 24th day of June, 1929, to perform the duties of a high constable under the provisions of this Act, shall be deposited with the Commissioner of Police for Ontario. 1929, c. 39, s. 4.

Oath to be deposited with clerk of the peace.

**10.** A high constable shall have the supervision of all the constables in his county, and shall be charged with the special duties of preserving the peace, preventing crime, and apprehending offenders, and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities which belong to constables. R.S.O. 1927, c. 125, s. 11.

To have supervision of other constables.

**11.** A high constable for services rendered by him shall be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. R.S.O. 1927, c. 125, s. 12.

To be entitled to fees unless otherwise provided.

*Returns by Constables.*

High and county constables to make returns.

**12.—**(1) Every high constable and every constable, whether appointed under the authority of this Act or any other Act, shall make such returns respecting his duties and acts as the Commissioner of Police for Ontario requires.

Exception as to certain cities and towns.

(2) This section shall not apply to a city or to a town having a board of commissioners of police. R.S.O. 1927, c. 125, s. 13; 1929, c. 39, s. 5.

*Inquiries by Commissioner.*

Supervision by Commissioner of Police.

**13.—**(1) The Commissioner of Police for Ontario shall have authority to inspect the offices of the high constables and constables appointed under this Act, and may hold inquiries into their conduct in connection with their official duties.

Commissioner may examine on oath and compel attendance of witnesses.

(2) Where the Commissioner of Police for Ontario institutes an inquiry he may require the officer or any other person to give evidence on oath, and for that purpose shall have the same power to summon such officer and other person to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence, as a judge of the Supreme Court has in civil cases. R.S.O. 1927, c. 125, s. 14; 1929, c. 39, s. 6; 1937, c. 72, s. 15 (1).

*Suspension and Dismissal.*

Suspension of constable.

**14.—**(1) A judge of the county court, or the Commissioner of Police for Ontario, may suspend from office any high constable appointed by the municipal council of a county, or any county constable for any period not extending beyond one week after the time appointed for the next sittings of the court of general sessions of the peace.

Suspension to be reported to clerk of the peace.

(2) The suspension shall be by notice in writing and, if the judge, or the Commissioner of Police for Ontario considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case fully to the clerk of the peace for submission to the court of general sessions of the peace at its next sittings.

Dismissal.  
Restoration to office.

(3) The court may dismiss the officer or direct him to be restored to his office, after the period of his suspension has expired, or after such further period as may be deemed proper.

(4) Subsections 1 to 3 shall not apply to an officer appointed to perform the duties of a high constable under the provisions of this Act by the Lieutenant-Governor in Council, but in all such cases the Commissioner of Police for Ontario may suspend any such officer so appointed, and after investigation upon notice to the officer, and subject to the approval of the Lieutenant-Governor in Council, may dismiss or direct such officer to be restored to his office after the period of his suspension has expired, or after such further period as may be deemed proper.

Suspension  
and dis-  
missal of  
high  
constable.

(5) This section shall not apply to any county for which there is a county board of commissioners of police, on the 24th day of June, 1929. 1929, c. 39, s. 7.

Extent of  
application  
of section.

### *Persons Exempt.*

15. The officers, non-commissioned officers and men of every militia corps shall be exempt from serving as constables except as special constables. R.S.O. 1927, c. 125, s. 16.

Members of  
militia  
corps  
exempt from  
service.

### *Appointment of Special Constables.*

16. If it is made to appear to any two or more justices of the peace upon the oath of any credible witness, that any tumult, riot or felony has taken place or is continuing or may be reasonably apprehended within the limits for which such justices have authority to act, and the justices are of the opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property, such justices may, by writing under their hands, appoint so many as they think fit of the householders or other persons, residing within such limits, or in the neighbourhood thereof, to act as special constables for such time and in such manner as to such justices may seem necessary. R.S.O. 1927, c. 125, s. 17.

Appoint-  
ment of  
special  
constables  
in certain  
cases of  
apprehen-  
sion of riot,  
etc.

Who may be  
appointed.

17. The justices of the peace who appoint special constables by virtue of this Act, or any one of them, or any other justice of the peace acting within the same limits, may administer to any person so appointed the following oath,—

I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the office of special constable for the of , without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law: So help me God.

Oath.  
Form of  
oath.

Notice of appointment to be sent to Commissioner of Police.

**18.** Where a special constable has been appointed, notice of the appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the justices making the appointment to the Commissioner of Police for Ontario. R.S.O. 1927, c. 125, s. 19; 1929, c. 39, s. 8.

Justices may make regulations touching special constables.

**19.** The justices who appoint any special constable, under this Act, or any two of them, or the justices acting within the limits for which the special constable has been appointed, or the majority of them, may make such orders and regulations as they may deem necessary or expedient for rendering the special constables more efficient for the preservation of the public peace, and may remove any such special constable from his office for any misconduct or neglect of duty therein. R.S.O. 1927, c. 125, s. 20.

Powers of special constables, and local extent of such powers.

**20.** Every special constable appointed under this Act, shall have and may exercise the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as any other constable throughout the territorial jurisdiction of the justices who appointed him. R.S.O. 1927, c. 125, s. 21.

Constable may act in other division.

**21.**—(1) Where two or more justices of the peace for any other territorial division deem it expedient that a special constable should be permitted to act in that division, they may make an order permitting him to do so. R.S.O. 1927, c. 125, s. 22 (1).

Notice to Commissioner of Police.

(2) Notice of such order shall be forthwith transmitted by the justices making the same to the Commissioner of Police for Ontario. R.S.O. 1927, c. 125, s. 22 (2); 1929, c. 39, s. 9.

Their powers in other adjoining division.

**22.** Every such special constable, during the time he so acts in such other territorial division, shall have and may exercise all the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as if he were acting within the territorial division or place for which he was originally appointed. R.S.O. 1927, c. 125, s. 23.

Special constables may be paid a per diem allowance.

**23.**—(1) The county judge may order such reasonable allowances for his trouble, loss of time and expenses, not exceeding \$1 a day, to be paid to a special constable.

Allowance to be paid by the treasurer of the municipality.

(2) Such order shall be made upon the treasurer of the territorial or municipal division for which the special constable has been appointed, and the treasurer shall pay the same, and shall be allowed the same in his accounts. R.S.O. 1927, c. 125, s. 24.



**24.** The justices who have appointed a special constable, or the Commissioner of Police for Ontario, may suspend or terminate the service of the special constable so appointed, and notice of such suspension or termination shall, when made by the justices, be forthwith transmitted to the Commissioner of Police for Ontario. 1929, c. 39, s. 10.

Suspension,  
or termina-  
tion of  
service of  
special  
constable.

**25.** The county judge, or the Commissioner of Police for Ontario, may exercise the powers herein conferred upon two justices of the peace as to special constables. 1929, c. 39, s. 11.

Powers of  
county  
judge and  
Commis-  
sioner of  
Police.

### *Penalties.*

**26.** If a person appointed to be a special constable,—

Penalty for  
refusing to  
take oath  
or act as  
constable.

(a) refuses to take the oath hereinbefore mentioned when thereunto required by the justices of the peace who appointed him or by any two of them or by any other two justices of the peace acting within the limits for which he was appointed; or

(b) neglects or refuses to appear for the purpose of taking the oath at the time and place for which he has been summoned unless he proves that he was prevented from so doing by sickness or some unavoidable cause; or

(c) being called upon to service, neglects or refuses to serve or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office,

he shall incur a penalty not exceeding \$20. R.S.O. 1927, c. 125, s. 27.

**27.** Every special constable, within one week after the expiration of his term of office, or after he has ceased to hold or exercise the same pursuant to this Act, shall deliver to his successor, if any, or to such persons and at such time and place as may be directed by a justice of the peace acting within the limits for which the special constable was appointed, every staff, weapon and other article which has been provided for such special constable under this Act, and if a special constable neglects or refuses so to do, he shall incur a penalty not exceeding \$8. R.S.O. 1927, c. 125, s. 28.

Special  
constables to  
deliver up  
their staves,  
etc., when  
discharged.

**28.** The penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act* and shall be paid to the treasurer of the territorial, or

Recovery of  
penalties.  
Rev. Stat.,  
c. 136.

municipal division within which the offence was committed.  
R.S.O. 1927, c. 125, s. 29.

#### REGULATIONS.

Regulations  
as to high  
constables  
and  
constables.

**29.—(1)** The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing, subject to any general statute, the duties of high constables and county constables;
- (b) respecting the location and regulation of the office of a high constable and the accommodation to be furnished therein;
- (c) prescribing the records, returns, books and accounts to be kept and made by or in the office of the high constable;
- (d) respecting the holding of investigations into charges against high constables or constables;
- (e) prescribing the method of accounting for the fees of high constables or constables and the records to be kept by them of all fees and costs collected or taken;
- (f) generally for the better carrying out of the provisions of this Act.

Regulations  
may be  
general or  
particular.

(2) Any regulations made under the authority of subsection 1 may be either general or particular in its application. R.S.O. 1927, c. 125, s. 30.

## PART II.

### THE ONTARIO PROVINCIAL POLICE FORCE.

Appoint-  
ment of  
Commis-  
sioner of  
Police.

**30.—(1)** There shall be a Commissioner of Police for Ontario, who shall be appointed by the Lieutenant-Governor in Council.

Powers and  
duties of  
Commis-  
sioner.

(2) The Commissioner of Police shall have the general control and administration of the Ontario Provincial Police Force and of all officers specially appointed for the enforcement of any statute of Ontario, and he and all the officers, members, clerks and employees of the Force shall be responsible to the Attorney-General for Ontario and shall perform such duties and exercise such powers as may be prescribed by the regulations. R.S.O. 1927, c. 125, s. 31 (1, 2).

(3) The Commissioner of Police may hold an inquiry into the conduct of any member of the Force or of any officer or employee under his control and upon such inquiry shall have and may exercise the like powers and authority as are conferred upon the Commissioner by section 13. R.S.O. 1927, c. 125, s. 31 (3); 1937, c. 72, s. 15 (2).

Investigations by Commissioner.

**31.**—(1) Unless otherwise provided by Order-in-Council, the Commissioner of Police for Ontario shall be *ex-officio* a magistrate for the Province of Ontario and shall have and may exercise and perform the powers and duties of a magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district, or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district, or other locality in which the offence charged is alleged to have been committed.

Commissioner to be *ex-officio* magistrate.

(2) The jurisdiction conferred by subsection 1 may be exercised by the Commissioner notwithstanding that there is in the locality in which he acts a magistrate, who, under *The Magistrates Act*, or any other statute, has jurisdiction exclusive or otherwise. R.S.O. 1927, c. 125, s. 32.

Exercise of jurisdiction.

Rev. Stat., c. 133.

**32.**—(1) There shall be a force of constables to be known as the Ontario Provincial Police Force.

Ontario Provincial Police Force.

(2) The Force shall consist of such officers, clerks and members as may be prescribed by the regulations and every officer and member of the Force shall have authority to act as a constable throughout Ontario and shall be deemed to be a provincial constable.

Members of, to be deemed provincial constables.

(3) In addition to the officers hereinbefore mentioned, the Lieutenant-Governor in Council may appoint such other officers and such officers, clerks and servants of the Ontario Provincial Police Force as may be deemed advisable.

Appointment of officers and clerical staff.

(4) The Lieutenant-Governor where he deems proper may authorize any person not a member of the Force to exercise the powers of a provincial constable. R.S.O. 1927, c. 125, s. 33; 1937, c. 72, s. 62.

Granting powers of provincial constable to other persons.

**33.** The Lieutenant-Governor in Council may make such regulations from time to time with respect to the office of the Commissioner of Police, and with respect to the Ontario Provincial Police Force and officers appointed for the enforcement of any statute of Ontario as he may deem expedient,

Regulations.

and providing for such clerical and other assistance, and for accommodation and office equipment for any such officer as he may deem expedient. R.S.O. 1927, c. 125, s. 34.

### PART III.

#### THE LAW ENFORCEMENT FUND.

Law En-  
forcement  
Fund.

**34.**—(1) Any money appropriated by the Legislature for the purpose of enforcing or preventing the contravention of the laws of the Province of Ontario or the Dominion of Canada, or of any regulation made thereunder shall be known as the "Law Enforcement Fund" and payments from the said Fund from time to time shall be made under the direction of the Attorney-General to such officers and persons and for such purposes as he may think proper, to be expended in such law enforcement, including the salaries and expenses of the officers, members and clerks of the Provincial Police Force.

Payments  
out of Fund.

(2) The certificate or order of the Attorney-General that any sum of money is required to be paid out of the said Fund shall be sufficient authority for the issue of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom such cheque is issued shall account for the proper disbursement of the proceeds thereof to the Attorney-General, whose approval of the account shall be final.

Payment of  
expenses of  
provincial  
officers act-  
ing under  
instructions  
of Attorney-  
General.

(3) Where any member of the Ontario Provincial Police Force is engaged in a matter of extradition or other special investigation, or where he performs any act or discharges any duty with the authority and under the direction of the Attorney-General, he shall be allowed such travelling, incidental and other expenses as the Attorney-General may approve, and the same shall be paid out of the said Fund. R.S.O. 1927, c. 125, s. 35.

### PART IV.

#### MISCELLANEOUS PROVISIONS.

When  
county to  
pay expenses  
of Ontario  
police.

**35.**—(1) When the Crown attorney of any county requests the services of a member of the Force the expenses of any member of the Force furnished in compliance with such request shall be certified by the Crown attorney and the amount so certified shall be paid by the treasurer of the county to the



Treasurer of Ontario. R.S.O. 1927, c. 125, s. 36 (1); 1934, c. 54, s. 8.

(2) In a provisional judicial district the treasurer of the district may, on the written request of the Crown attorney, make an advance to any member of the Ontario Provincial Police Force for the purpose of paying reasonable and necessary expenses incurred in any criminal matter. R.S.O. 1927, c. 125, s. 36 (2).

Advances to provincial police in districts.

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3. *Expenses.*

## CHAPTER 141.

## The Administration of Justice Expenses Act.

## PART I.

## FEES OF OFFICERS.

Who may  
make rules  
as to fees.

Rev. Stat.,  
c. 100.

**1.** Where not otherwise provided by law the judges authorized to make rules under *The Judicature Act* may make rules fixing and determining the fees to be allowed to counsel, solicitors and other officers and persons for or in respect of any criminal prosecutions, matters, and proceedings in the Supreme Court or court of general sessions of the peace, or under any commission or special commission, or relating to the King's revenue, and shall therein distinguish the fees to be paid by private individuals. R.S.O. 1927, c. 126, s. 1.

Fees in  
criminal  
matters—to  
sheriffs,  
Crown  
attorneys,  
coroners,  
clerks of the  
peace, etc.

**2.—(1)** Subject to such rules the table of fees in Schedule A shall be the fees to be taken by sheriffs, coroners, clerks of the peace, Crown attorneys, clerks of courts, constables and criers respectively for the services therein mentioned, in respect of any business transacted by them in any such prosecution, matter or proceeding, and in the proceedings in the county or district court judges' criminal court and before coroners, police magistrates and justices of the peace. R.S.O. 1927, c. 126, s. 2.

Alterations  
in Schedule  
of fees.

**(2)** The Lieutenant-Governor in Council may from time to time amend or repeal any of the items in the tariff of fees in the said Schedule A, or add thereto, and all items so amended, repealed or added shall have the same force and effect as if they had been so enacted by the Legislature. 1929, c. 40, s. 2.

Fees of  
sheriffs on  
removals to  
reforma-  
tories.

**3.** The tariff of fees established by this Act for the services of sheriffs in connection with offenders sentenced or liable to be removed to the Ontario Reformatory shall apply also to offenders sentenced or liable to be removed to other reformatories. R.S.O. 1927, c. 126, s. 3.

4. A county council may agree with the clerk of the peace for the payment to him of a gross annual sum in lieu of all fees chargeable by him to the county, and which are not repayable to the county by Ontario; but either of the parties to the agreement may determine the same on the 31st day of December in any year, by giving to the other one month's notice, in writing, of the intention so to do. R.S.O. 1927, c. 126, s. 4.

Arrangement with clerk of the peace as to his fees.

5. All percentages, fees or allowances, on levying fines and recognizances, may be levied over and above the amount of the fines and recognizances. R.S.O. 1927, c. 126, s. 5.

Levying fees.

6.—(1) Nothing herein shall deprive any of the officers mentioned in section 2, of fees allowed by any Act of the Parliament of Canada, or of this Legislature, for other services not herein provided for.

Fees for services not mentioned herein.

(2) A court crier may be paid such salary in addition to or in lieu of fees payable to him under the provisions of this Act as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 126, s. 6.

Crier's salary.

7. If any such officer wilfully demands or receives any other or greater fee, percentage or allowance than the fee, percentage, or allowance to which he is entitled under this Act, for any of the services performed by him, unless allowed by an Act of the Parliament of Canada, or of this Legislature, he shall, for every such offence, incur a penalty of \$60. R.S.O. 1927, c. 126, s. 7.

Penalty for taking higher fees.

8. A gaol surgeon for the examination of each prisoner eligible for removal, or sentenced to the penitentiary or a reformatory, including certificate, shall be entitled to receive a fee of \$1. R.S.O. 1927, c. 126, s. 8.

Fees of gaol surgeons.

9.—(1) Where, in the opinion of the Crown attorney, special services, not covered by the ordinary tariff, are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, he may authorize and direct any constable or other person to perform such service, and shall certify upon the account to be rendered by the constable or other person what he deems a reasonable allowance to be paid to the person employed, and the amount so certified shall be paid to such person by the county.

Allowance to constables and others for special services.

(2) The Crown attorney may direct the treasurer of the county to advance to the constable or other person such sum as he may name for the purpose of paying the reasonable and necessary expenses incurred or to be incurred by such constable or other person in the performance of such special

Advances to constables, etc., for expenses in performing special services.

services, and the treasurer of the county shall pay such sum, upon the written order of the Crown attorney, and shall deduct the amount thereof from the subsequently certified account of the constable or other person employed.

Application  
of this  
section.

(3) This section shall not apply to services in a city or separated town for which there is a staff of salaried police officers, and no allowance shall in any other case be made under subsection 1 to any salaried constable or other officer, unless he is entitled to receive for his own use, in addition to his salary, the fees earned by him.

In districts.

(4) This section shall apply *mutatis mutandis* to districts without county organization, and the treasurer of the district shall pay or advance the amount certified or directed by the Crown attorney in the same manner as the treasurer of the county is required to do by subsections 1 and 2. R.S.O. 1927, c. 126, s. 10.

Advance to  
constable in  
case of  
emergency.

**10.** In case of emergency the reeve of the municipality, in which crime of a serious character is supposed to have been committed may, jointly with the Crown attorney, direct the payment in advance by the county treasurer to any high or county constable of a sum not exceeding \$10 in respect of any special services deemed by them to be necessary for the detection of the crime or the capture of the person who is supposed to have committed it, and they shall certify on the account to be rendered by the constable what they may deem to be a reasonable allowance for the services, and the treasurer shall, on their written order pay the sum so directed to be advanced as in other cases in the administration of justice. R.S.O. 1927, c. 126, s. 11.

Fees for  
attending  
sittings for  
trial.

**11.—(1)** Every local registrar, and deputy registrar, and every officer authorized to act as local registrar, or deputy registrar, shall be entitled to be paid out of the Consolidated Revenue Fund, \$4 for each day's attendance at non-jury as well as at jury sittings.

Allowance  
in case of  
prolonged  
sittings.

(2) Where a sittings of the Supreme Court, county or district court, or court of general sessions of the peace is continued after eight o'clock in the evening an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding judge, be made to any officer in attendance upon such court who is paid for services by a *per diem* allowance. R.S.O. 1927, c. 126, s. 12, *amended*.

(NOTE.—*As to return of fees by clerks of the peace, see The Crown Attorneys Act, Rev. Stat., c. 137.*)



**12.** Where services are rendered by any person in connection with any prosecution, and such services are rendered by the direction or with the approval of the Attorney-General, the person by whom they are rendered shall be entitled to be paid such sum as the Attorney-General may direct, and the same shall be charged upon and be paid out of the Consolidated Revenue Fund. R.S.O. 1927, c. 126, s. 13.

Payment for special services.

**13.** Where it is, in the opinion of the Attorney-General, necessary in order to procure the attendance, as a witness for the Crown at a criminal trial, of a person resident out of Ontario that such person should be compensated for his loss of time and expenses in attending the trial, the Attorney-General may direct that such sum as he may deem reasonable be paid to such person and the same shall be charged upon and payable out of the Consolidated Revenue Fund. R.S.O. 1927, c. 126, s. 14.

Remuneration of witnesses coming to Ontario to give evidence.

**14.** The Crown attorney may employ an interpreter in any criminal cause or investigation or at a coroner's inquest, and the interpreter shall be paid such amount as the Crown attorney may certify to be reasonable, and the same shall be allowed to the interpreter in the account in respect of the administration of justice and shall be payable by the county. R.S.O. 1927, c. 126, s. 15.

Employment and payment of interpreter.

## PART II.

**15.—(1)** All fees payable under Part I to the officers therein mentioned for services in proceedings in the nature of a civil remedy for persons at whose instance and for whose private benefit the same are performed shall be paid by such persons.

Fees in civil matters payable by parties.

(2) Except as herein or by law otherwise provided all fees payable under Part I to the officers therein mentioned, for services connected with the administration of justice, other than those mentioned in subsection 1, shall be paid in the first instance by the county, unless the county gaol is owned and maintained by a city, in which case the fees in respect of prisoners convicted for offences committed within the city limits shall be paid in the first instance by the city, and so far as they relate to prisoners convicted for offences committed in the county without the limits of the city, shall be paid in the first instance by the county, and the county or city, as the case may be, shall be entitled to be reimbursed out of the Consolidated Revenue Fund all of the said expenses mentioned in Schedule C which relate to prisoners who

Fees payable in first instance by county.

have been convicted of indictable offences or committed for trial, or who have been tried but not convicted under Parts XVIII or XIX of the *Criminal Code*.

Regulations as to audit by Auditor of Criminal Justice Accounts.

Rev. Stat., c. 24.

(3) The Lieutenant-Governor in Council may prescribe regulations for the examination, audit and approval by the Auditor of Criminal Justice Accounts of all accounts of or relating to the expenses mentioned in subsection 2 and notwithstanding anything in *The Audit Act* or any other Act contained such accounts shall not be subject to further examination or audit, and all accounts payable out of the Consolidated Revenue Fund under the provisions of subsection 2 shall be paid by the Treasurer of Ontario as requisitioned by the Attorney-General or his deputy upon the certificate of the Auditor of Criminal Justice Accounts.

Apportionment of expenses.

(4) The methods of payment and of apportionment set forth in items 1 and 2 under the subhead "Other Matters" in Schedule C constitute the basis upon which the expenses or proportion thereof mentioned in such subhead payable out of the Consolidated Revenue Fund have heretofore and shall hereafter be fixed. R.S.O. 1927, c. 126, s. 16.

County to be reimbursed one-half constable's fees.

**16.**—(1) Where an allowance to a constable or other person under section 9 is paid by the county, the county shall be repaid one-half thereof out of the Consolidated Revenue Fund.

Reimbursement of county for Crown attorney's fees.

(2) Notwithstanding anything in this or in any other Act each county shall be entitled to be reimbursed from time to time out of the moneys appropriated to the administration of justice for counties, such amounts paid to Crown attorneys for services and disbursements as the Attorney-General shall in his discretion consider proper to be repaid.

Evidence of payment by county.

(3) A statutory declaration of the treasurer of the county or city that the accounts have been paid by the county or city respectively, shall be sufficient evidence of that fact.

Mileage—how ascertained.

(4) The distance travelled from the court house to the place where a paper is served or other service performed shall be ascertained by the statutory declaration or affidavit of the sheriff or his bailiff or other officer who actually makes or performs the service. R.S.O. 1927, c. 126, s. 17.

In cases of indictable offences costs to be paid out of the county funds.

**17.** Where a person is prosecuted or tried for an indictable offence and convicted or acquitted, or otherwise discharged, the costs of the prosecution, including the actual travelling expenses of the Crown attorney, when not otherwise pro-

vided by law, shall be paid by the county. R.S.O. 1927, c. 126, s. 18.

**18.**—(1) Where in the case of a prosecution for an indictable offence the venue is changed from the county in which such offence is alleged to have been committed to another county, the county in which the trial would have taken place had the venue not been changed, shall repay to the county to which the venue is changed all additional expenses to which such last mentioned county is put by reason of the change of venue. Expenses of trial on change of venue.

(2) Where the venue is changed from a provisional judicial district to a county the county shall be reimbursed such expenses by the Government, and when the venue is changed from a county to a provisional judicial district such expenses shall be repaid to the Government by the county. Where venue changed from provisional judicial district to county.

(3) Any amount payable by one county to another or by a county to the Province under subsection 1 or subsection 2 shall be a debt recoverable by the county or the Crown as the case may be, by action in any court of competent jurisdiction. R.S.O. 1927, c. 126, s. 19. How recoverable.

**19.** Where a person is charged with an indictable offence every officer of the court before which he is tried, or any proceedings is had with regard to the charge, who renders any official service in the matter of the charge, or in the course of the trial, to the person so charged, shall be paid his lawful fee for such service by the county, in the same manner as other fees payable to them in respect of official services rendered to the Crown in the conduct of public prosecutions, and no such fee shall in any case be demanded of or be payable by the person charged. R.S.O. 1927, s. 126, s. 20. In cases of indictable offences fees for services to person charged to be paid from the county funds.

**20.**—(1) Subject to the provisions of Part III, all accounts and demands preferred against a county in respect of the administration of criminal justice shall be audited and approved by the board of audit hereinafter mentioned. Accounts against county to be audited by a board of audit.

(2) The accounts and demands shall be delivered to the clerk of the peace on or before the 1st days of January, April, July and October in every year. R.S.O. 1927, c. 126, s. 21. Accounts to be sent to clerk of peace quarterly.

**21.**—(1) Subject to the provisions of subsection 2, the board of audit shall consist of the judge of the county court, and two other persons, not more than one of whom shall be a member of the council, who shall be appointed annually at its first meeting by the council of the county. Board,—how constituted and paid.

Where city  
concerned.

(2) The council of every city which forms part of a county for judicial purposes and pays a part of the expenses of the administration of justice shall appoint one member of the board of audit and in that case the county council shall appoint a member of the board of audit for every member appointed by the council of a city.

Remunera-  
tion of mem-  
bers of  
board of  
audit.

(3) The county and city councils may pay each member of the board such sum as they may respectively by by-law determine for his attendance at the audit and five cents for each mile necessarily travelled in going to and returning therefrom.

Absence of  
judge.

(4) The junior judge or a deputy judge, if any, in the absence or at the request of the judge may act in his stead. R.S.O. 1927, c. 126, s. 22.

Duties of  
clerk of the  
peace at  
audit.

**22.** The clerk of the peace, on the direction of the judge, shall convene the board for the purpose of submitting to it the accounts and demands delivered to him and shall attend the audit, record the proceedings thereat and carry out the orders of the board in respect of the same. R.S.O. 1927, c. 126, s. 23.

When board  
to consider  
accounts.

**23.**—(1) The accounts and demands shall be taken into consideration by the board between the 1st and 15th days of January, April, July and October in each year, and shall be disposed of as soon as practicable.

Report.

(2) The board, on the completion of the audit, to be made in October, shall make a report to the council of any irregularity in the accounts and demands, or of any claim made contrary to law, or of any other matter which the board considers should be brought to the notice of the council.

Authority of  
chairman of  
board of  
audit as to  
evidence.

(3) The chairman of the board of audit shall have the power of summoning before the board any person, and of requiring him to give evidence on oath, and to produce such documents and things as the board may deem requisite to the full investigation of such accounts and demands, and for that purpose shall have the same power to enforce the attendance of any person, and to compel him to give evidence, and produce documents and things as is vested in any court in civil cases. R.S.O. 1927, c. 126, s. 24.

Discretion of  
board in  
case of  
arrest of  
vagrants.

**24.** Where the account of a constable for services performed in connection with the arrest and detention of vagrants is deemed unreasonable, or the arrests appear to have been unnecessary or to have been made for the purpose of making



fees, the board may refuse to approve the accounts, in whole or in part, or may report the facts and its opinion thereon to the county council, which may, by resolution, refuse payment of such accounts in whole or in part. R.S.O. 1927, c. 126, s. 25.

**25.**—(1) When the accounts have been audited and approved by the board they shall be certified by the clerk of the peace and his certificate shall be sufficient evidence of such audit and approval. Certificate of clerk of the peace as to audit of board.

(2) In certifying accounts, except for the payment of constables, the certificate shall state the statute, if any, under which the expenditure is authorized. R.S.O. 1927, c. 126, s. 26. Specifying authority for payment.

**26.** The treasurer of the county shall notify the board of the items disallowed by the Auditor of Criminal Justice Accounts in the criminal justice accounts of the previous quarter, and the board may deduct the amounts so disallowed from the next or any accounts of the same officers submitted for audit. R.S.O. 1927, c. 126, s. 27. Items allowed by Auditor of Criminal Justice Accounts.

**27.** On the presentation of his account for services and disbursements duly verified, with the certificate of the magistrate, Schedule B, and a recommendation of the judge of the county court, naming the amount, a high or county constable shall be entitled to be paid seventy-five per centum of such account without waiting for a meeting of the board to pass the same; but if the board afterwards finds that the constable has been overpaid, he shall refund the amount overpaid, and if not refunded it may be deducted from his next or any subsequent account. R.S.O. 1927, c. 126, s. 28. Payment of percentage on constable's account on recommendation of county judge.

**28.** In proper cases the board may, upon the recommendation in writing of the magistrate and high constable, allow a reasonable amount to a county constable for his services, in addition to the fees provided for by Schedule A. R.S.O. 1927, c. 126, s. 29. Board of audit may allow sum in addition to tariff fees.

**29.** The board may direct the treasurer to defer payment of any account, or any item in any account, payable out of the Consolidated Revenue Fund in respect of which it doubts either the liability of the Province or the correctness of the amount charged, until the decision of the Auditor of Criminal Justice Accounts as to the correctness or allowance of the account or item has been notified to the treasurer. R.S.O. 1927, c. 126, s. 30. Doubtful items in accounts may be deferred.

County  
treasurer's  
duty.

**30.** The treasurer of every county shall, without further authority, pay the amount of the fees which are payable by the county, when certified as aforesaid, and in preference to all other charges, unless otherwise provided by law and in the following order that is to say, after the expenses of levying and collecting and managing the rates and taxes imposed in the county are paid,—

Order of  
payment for  
accounts.

- (a) all sums payable to the sheriff, coroner, gaoler, surgeon of the county gaol, or to any other officer or person, for the support, care or safe keeping of the prisoners in the county gaol, or for the repair-and maintaining of the court house or gaol;
- (b) the accounts of public officers and officers of the court of general sessions of the peace;
- (c) all sums payable for any other purpose connected with the administration of justice within the county;
- (d) all other sums certified as aforesaid in the order in which the same are certified. R.S.O. 1927, c. 126, s. 31.

### PART III.

Auditors of  
accounts  
payable by  
Province.

**31.** The Lieutenant-Governor in Council may appoint the local registrar of the county, or some other public officer resident in the county town, to be the auditor of the accounts relating to the administration of justice in the county for which the Province is liable. R.S.O. 1927, c. 126, s. 32, *amended*.

Audit of  
certain items  
by county  
auditor  
dispensed  
with.

**32.** Where such an appointment is made it shall not be requisite for the board of audit, appointed under Part II, to audit or approve any account in respect of items set out in Schedule A under any of the following headings namely,—“Sheriffs,” “Clerks of the Peace,” “Criers,” and “Constables” where the accounts rendered under these headings are in respect of offences belonging to any of the following classes,—

- (a) offences for which the persons charged were committed or held to bail for trial at the sittings of the Supreme Court or general sessions of the peace;
- (b) offences for which the persons charged were convicted before a magistrate, under Part XVI or before a judge of a county or district court under Part XVIII of the *Criminal Code*;

or in respect of fees to gaol surgeon under the heading "Other Matters" in such Schedule. R.S.O. 1927, c. 126, s. 33.

**33.** All other accounts in connection with the administration of civil or criminal justice which, under Parts I and II or otherwise, are payable by the county shall be audited by the board of audit. R.S.O. 1927, c. 126, s. 34. Audit by county auditors.

**34.** Where such an appointment is made, all services heretofore performed under the regulations provided for by subsection 3 of section 15 in respect of the auditing and approving of accounts relating to the administration of justice, and in respect of the auditing of accounts of the Crown attorney, for which the Province is liable, shall thereafter be performed by the auditor so appointed who, so far as the auditing and approving of such accounts is concerned, shall be substituted for the board of audit, wherever the board is mentioned in Part II. R.S.O. 1927, c. 126, s. 35. Accounts which are to be audited by auditor appointed under s. 31.

**35.** All accounts and demands to be audited by the auditor shall be delivered to him in duplicate, on or before the tenth day of every month, and shall include all demands of the person rendering the same up to the last day of the next preceding month. R.S.O. 1927, c. 126, s. 36. When accounts to be delivered to auditor.

**36.** Every account shall be rendered in the form in Schedule B or in such other form as the Lieutenant-Governor in Council may prescribe, and shall be verified by the oath of the claimant that the amount is correct in every particular, and, when mileage is charged, the places from and to which the mileage is reckoned, and the number of miles shall be mentioned, and in no case shall more than the actual number of miles travelled be allowed, nor, where the service is by a sheriff's officer, shall a greater number of miles be allowed than the distance from the court house to the place of service, and the separate items in such account shall be numbered consecutively. R.S.O. 1927, c. 126, s. 37. Form of account.

**37.** Forms of account, in accordance with Schedule B, or such other form as may be prescribed by the Lieutenant-Governor in Council, shall be provided by the county, and shall on application be furnished by the county treasurer to the officers requiring them. R.S.O. 1927, c. 126, s. 38. Forms to be provided by county.

**38.** Every account of a constable shall be certified by the justice or coroner under whose direction the constable acted. R.S.O. 1927, c. 126, s. 39. Constable's accounts to be certified.

Powers of  
auditor.

**39.** The auditor may call upon the claimant for any information that may be required in connection with his account, and for a reference to the authority for the charges made, and may administer an oath to the claimant or to any other person giving evidence in respect of the claim, but shall make no charge therefor. R.S.O. 1927, c. 126, s. 40.

Duties of  
auditor.

**40.** The auditor shall audit each account on receipt thereof, or as soon thereafter as he reasonably can, and, if the claimant so desires, in his presence; the auditor shall note with red ink in the proper column of the account the item or items disallowed or deferred for further inquiry, distinguishing those disallowed from those deferred, and he shall forthwith, after audit, transmit one of the duplicates of each account to the county treasurer, having first indorsed on such account a certificate showing the amount found to be due to the claimant. R.S.O. 1927, c. 126, s. 41.

Duties of  
Auditor.

**41.** The treasurer of the county shall pay the accounts so approved and take receipts therefor and transmit receipted accounts, with a proper statement of account, to the Auditor of Criminal Justice Accounts at Toronto, who shall check and audit the same, and warrants shall be issued for the amount of such payments to the county treasurer. R.S.O. 1927, c. 126, s. 42.

Auditor of  
Criminal  
Justice  
Accounts  
may dis-  
allow sums  
improperly  
allowed.

**42.** The Auditor of Criminal Justice Accounts may disallow any sum which has been improperly allowed by the auditor, and, unless the same is disallowed because not payable by the Province, if the same has been paid meanwhile by the county treasurer, he shall deduct the amount from any money which may, within a year next thereafter, be payable by the county to the person to whom the payment was erroneously made, and if no money, or not sufficient money, shall be so payable the Province shall make good to the county the amount or the deficiency, as the case may be. R.S.O. 1927, c. 126, s. 43.

Payment by  
Province on  
default of  
municipality.

Rev. Stat.,  
cc. 266, 388,  
140.

**43.** Notwithstanding any ruling of the county board of audit or city board of audit, as the case may be, where the council of any county or city neglects or refuses to pay to the gaoler or any officer of the gaol the salary payable under the provisions of section 388 of *The Municipal Act*, or neglects or refuses to provide for the making of repairs, alterations or additions to the gaol as required by section 9 of *The Gaols Act*, or where the treasurer of a county neglects or refuses to pay to the Treasurer of Ontario the expenses of any member of the Ontario Provincial Police Force as required by section 35 of *The Constables Act*, the Auditor of Criminal



Justice Accounts may pay such salary, provide for the making of such repairs, alterations or additions and make such payments for the expenses of the Provincial Police Force to the Treasurer of Ontario, out of the moneys at any time owing by the Province to such county or city under this Act. 1937, c. 72, s. 2.

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## SCHEDULE A.

### SHERIFFS.

1. Attending sittings of the Supreme Court, per diem.....	\$5.00
2. Attending the general sessions, jury sittings of the county court and county or district court judges' criminal court, per diem.....	5.00
3. Summoning each grand jury for the Supreme Court or general sessions.....	15.00
4. Summoning each petit jury for the Supreme Court, surrogate court, county court or general sessions.....	25.00
5. For every prisoner discharged from gaol, having been committed by warrant for trial at the Supreme Court or general sessions.....	1.00
6. For the discharge from gaol of every prisoner convicted by magistrate under Part XVI or by a judge of the county or district court under Part XVIII of the Criminal Code.....	1.00
7. Bringing up each prisoner for arraignment, trial and sentence, whether convicted or acquitted, including prisoners who have been out on bail, for each day necessarily brought up.....	2.00
8. Drawing calendar of prisoners for trial at the Supreme Court or general sessions including copies.....	5.00
9. Advertising the holding of the sittings of the Supreme Court or general sessions.....	4.00
10. Every annual or general return required by law or by the Government respecting the gaol or the prisoners therein..	15.00
11. Every other return made to the Government.....	4.00
12. Every return made to the Assembly.....	4.00
13. Every return to the court of general sessions of the peace, required by statute or by order of the court.....	2.00
14. Every return required by the county council.....	1.00
15. Every return to the Inspector of Legal Offices.....	4.00
16. Returning precepts to the Supreme Court or general sessions.....	4.00
17. Conveying prisoners to the penitentiary or reformatory or to another county (exclusive of disbursements), for each day necessarily employed.....	6.00

18. Arrest of each person upon a warrant (to be paid out of the county funds, or by the party, as the case may be).....	\$3.00
19. Serving subpoena upon each person (to be paid out of the county funds, or by the party, as the case may be).....	1.50
20. Travelling in going to execute warrant or serve subpoena or in returning with a prisoner, per mile actually travelled, one way.....	.20
(To be paid out of county funds or by the party as the case may be; where the service has not been effected the board of audit is to be satisfied that due diligence has been used.)	
21. Conveying prisoners on attachment, judge's order or habeas corpus to another county or district, exclusive of disbursements, for each day necessarily employed (to be paid out of the county funds, or by the party, as the case may be)....	6.00
22. Making return upon attachment or writ of habeas corpus (to be paid out of the county funds, or by the party, as the case may be).....	2.00
23. Levying fines or issues on recognizances estreated, or other process (to be levied under section 5 of Part 1): \$5 per \$100 on the first \$400 of the sum levied, exclusive of mileage, at 10 cents per mile, and on all sums above \$400 the same allowance as on executions in civil proceedings. Where a levy has not been made, \$2 for every \$100 of the amount received in lieu of the above amount.	
24. Carrying into execution the sentence of the court in capital cases.....All such sums as are unavoidably disbursed.	
25. Attending and superintending the executions in such cases..	20.00
26. Summoning each constable to attend the Supreme Court or general sessions exclusive of mileage at 20 cents a mile, one way.....	.50
27. Keeping a record of jurors who have served each court.....	4.00
28. Disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the penitentiary or reformatory, to any other county or elsewhere or for other purposes in the discharge of the duties of his office (where not provided by law, or hereinbefore specifically provided for) to be rendered in account in detail with the proper vouchers, to the satisfaction of the board of audit, and to be by the board allowed.....	
29. Disbursements actually and necessarily incurred while in attendance upon a judge of the Supreme Court when holding a sittings of the Supreme Court or incurred in obedience to his order, to be paid by the treasurer of county upon the order of the sheriff.....	
30. Keeping a record of constables at the Supreme Court or general sessions, each.....	2.00
31. Notification to judge, under section 826 of The Criminal Code, for each prisoner.....	1.00

32. Making special return of prisoners sentenced to Ontario Reformatory or Mercer Reformatory and of prisoners eligible for removal to the Ontario Reformatory or Mercer Reformatory, as the Inspector may direct (each prisoner).	\$1.00
(Not more than \$5 to be allowed for any one return, and each return must cover all prisoners in gaol when the same is made.)	
33. Certified copy of sentence.....	.50
34. Taking prisoner to railway station to be delivered to bailiff for reformatory, in addition to other expenses incurred in such duty.....	1.00
35. Return and services in respect of inquisition on body of a prisoner dying in the gaol.....	4.00
36. General supervision over the gaol (and gaol farms) and prisoners therein and the books kept in connection therewith in addition to any other allowance per quarter.....	50.00
37. Every prisoner discharged from gaol other than prisoners committed by warrant for trial at the sittings of the Supreme Court or general sessions.....	1.00
38. Services performed under section 1059 of the Criminal Code, in each case disposed of under that section.....	2.00
39. For attending and carrying out a sentence in cases of flogging, and reasonable disbursements in preparing a triangle, cat, and straps, and a man to execute sentence.....	6.00
40. General fee as an allowance to cover services under any statute, rule, Order-in-Council or otherwise for which no fee is provided, per quarter.....	75.00

R.S.O. 1927, c. 126, Sched. A, "Sheriffs"; 1929, c. 40, s. 5; O-in-C. Sept. 7th, 1937.

(NOTE.—*For Schedule of Coroners' fees, see "The Coroners Act," Rev. Stat., c. 138.*)

#### CLERKS OF THE PEACE.

1. Drawing precepts to summon the grand and petit juries for the general sessions; attending judge to sign same; and transmitting to the sheriff.....	\$6.00
2. Attending general sessions or board of audit for the first day	6.00
3. For each additional day, not including time occupied by county court.....	4.00
4. Making up records of general sessions (when completed), including quarterly record of returns of convictions required by <i>The Justices of the Peace Act</i> .....	15.00
5. Notice of every appointment of a constable, under <i>The Constables Act</i> or other officer appointed by the general sessions or by the judge.....	.25

6. Drawing every special order of the general sessions necessary to be communicated to any person, and entering it on record.....	\$1.00
7. Notice of any order made by the general sessions, and letter transmitting same, when necessary.....	.50
8. Copying orders of the court, and causing the same to be published where necessary, exclusive of the expense of publication, per folio.....	.10
9. Issuing subpoena.....	.75
10. Every copy of subpoena (when necessary and when not made out or charged for by the Crown attorney).....	.25
11. Issuing bench warrant.....	1.00
12. Every recognizance to keep the peace, or for good behaviour	1.00
13. Every recognizance to appear.....	.50
14. Calling parties on their recognizance and recording their non-appearance, for each person called.....	.25
15. Discharging a recognizance.....	.50
16. Drawing order of the general sessions to estreat and put in process (on the whole list).....	1.00
17. Entering an order to remit an estreat and recording an entry of the same.....	.50
18. Preparing list each sittings; specifying names of persons making default under <i>The Estreats Act</i> .....	.50
19. Entering and extracting upon a roll, in duplicate, the fines, issues, amerciaments, and forfeited recognizances recorded in each session, making oath to the same, and transmitting to the sheriff.....	2.00
20. Making out and delivering to the sheriff the writ of <i>fieri facias</i> and <i>capias</i> thereon.....	.75
21. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Treasurer of Ontario.....	1.00
22. Copies of depositions or examinations furnished to prisoners accused of felony, or their counsel, per folio of 100 words (when required by the accused, or his counsel, and ordered by the court. This fee not to be charged when copies are furnished by the Crown attorney).....	.10
23. Receiving and filing each indictment, when bill returned by the grand jury.....	.50
24. Receiving and filing each presentment of the grand jury.....	.50
25. For a copy of presentment of the grand jury, forwarded by order of the court of general sessions, per folio.....	.10
26. Arraigning each prisoner, or defendant.....	.75
27. Recording plea, or receiving and filing demurrer.....	.50
28. Empanelling and swearing the grand jury.....	1.00
29. Empanelling and swearing the petit jury in each case.....	.75



30. Swearing each witness, before the grant jury.....	\$ .20
31. Charging the jury with prisoner or defendant upon each indictment.....	1.00
32. For filing each exhibit, list, return, or other paper connected with the proceedings in the court of general sessions where no charge therefor is specially provided.....	.10
33. Swearing each witness upon any trial or proceeding before the court.....	.20
34. Receiving and recording verdict of petit jury.....	.50
35. Recording each judgment or sentence of the court.....	1.00
36. Making out and delivering to the sheriff a calendar of the sentences in each court.....	1.50
37. Making out a certified copy or abstract of sentences sent with the prisoners to the penitentiary, or reformatory after each session.....	1.00
38. Making up record of conviction or acquittal.....	1.00
39. Discharging prisoner by proclamation, each.....	.50
40. Every allowance of certiorari, to be paid by the party applying except when he is in indigent circumstances.....	1.00
41. Furnishing to sheriff and each of the coroners revised lists of constables, when a revision has been made and when ordered to be done by the justices in general or adjourned sessions, for each list.....	1.00
42. Reading statute or public proclamation, when required to be done by law.....	.25
43. Making every copy or extract of a record, or paper, or document of any kind, required to be made by law, or by the order of the justices in sessions, or by the order of the Government, in any of its departments, or for the information and use of the Government, when required, and when no charge is fixed by law, per folio.....	.10
44. Causing public notice to be given of an intention to alter or rescind previous orders respecting the number and extent of any one or more of the division court limits, under <i>The Division Courts Act</i> .....	.50
45. Drawing up such orders of general sessions, for altering the limits of division courts, per folio.....	.20
46. Making and transmitting copies of such orders to the Government, per folio.....	.10
47. Making and transmitting copies of such orders to each clerk of a division court affected by such alterations, per folio..	.10
48. Making up book of orders of general sessions, declaring the the limits of division courts.....	1.50
49. Making and transmitting copies (with letter) to the clerk of each division court.....	1.00
50. Making and transmitting a copy thereof to the Government..	1.00
51. For every necessary certificate, per folio.....	.20

52. Making and transmitting to the Treasurer of Ontario, a return or schedule of all convictions which have taken place before the court, each list including letter.....	\$1.00
53. Causing notice to be published of any special or adjourned general sessions, when directed by the chairman, or other two justices, so to do, besides amount paid for publication..	1.00
54. Sending notice of any such general sessions to the justices individually, when it is directed by the chairman, or other two justices, for each notice.....	.20
55. Attending each adjourned or special sittings of the general sessions, and making up record of same, when completed..	5.00
56. Making out warrant of distress or commitment, in any case where no fee is specially assigned therefor by any statute, or by this tariff.....	1.00
57. Swearing constable in open court.....	.20
58. Receiving, filing, and recording each oath of qualification of a justice of the peace.....	.25
59. Every letter written by direction of the justices in sessions to the Government, or justices, or coroners, or constables, or others upon matters connected with the business of the court or the administration of justice.....	.25
60. All necessary outlays for postage and publishing to be added in all cases.	

The above tariff of fees and costs shall also be applicable in all proceedings where costs are chargeable or ordered to be paid by private parties, together with the following additional items:

61. Certifying the result of each appeal heard and determined by the court to the convicting justice or to any party requesting the same under any statute.....	.50
62. For every single search.....	.20
63. For every general search.....	.50
64. Receiving and filing notices of appeal and the appeal from any judgment or conviction by one or more justices where an appeal is given by law to the court of general sessions of the peace.....	.50
65. When the appeal called,—on reading the conviction, notice of appeal and recognizance.....	.50
66. For all other services upon the trial of such appeal case, when tried by a jury, the same charges as hereinbefore specified in other trials.	
67. Issuing process to enforce the order of the court in appeal case when required by law.....	1.00
68. For each copy of schedule of the times and places of holding the division courts with the order of sessions and forwarding the same to each division court clerk.....	.50
69. Drawing bill of costs, including taxation and filing the same where necessary to be made and filed, as in cases of assault, nuisances or the like, and in appeals ( <i>to be paid by the party</i> )	.50

70. For every certificate required of proof of a deed, ( <i>to be paid by the party applying for the same</i> ).....	\$1.00
71. Receiving and filing affidavit of bastardy, ( <i>to be paid by the party producing it</i> ).....	.25
72. Receiving and filing each tender for any public work, or supply, or printing, or other service.....	.25
73. Making out a list of the several tenders on each occasion, as they are opened, specifying the names, prices, and other particulars, and filing the same, when required to be done by the justices.....	.50
74. Drawing bonds or agreements for the delivery of articles, or for doing the work for the gaol or other county purposes, and attending execution, when required by the justices..	1.00
75. Receiving and filing accounts and demands, preferred against the county, numbering them, and submitting them for audit, and making out the cheques.....	4.00
76. Making out and delivering lists of orders on the treasurer, made at each audit.....	2.00
77. For every report or return required by statute, or by the Government, where no remuneration has been provided by this table or by statute.....	1.00
78. Making out and transmitting a return to the Government of justices and coroners who have taken the oaths, when required to be done, for each return.....	1.00
79. Swearing each party to an affidavit, where no charge is elsewhere provided for it ( <i>to be paid out of the county funds, or by the party for whom the affidavit is sworn, according to the nature of the case</i> ).....	.20
80. Drawing certificate of approval by the justices in sessions, of sureties tendered by the sheriff, ( <i>to be paid by sheriff</i> )...	.50
81. Administering oaths to any public officer, when authorized so to do, ( <i>to be paid by the officer</i> ).....	.25
82. For distributing the statutes to the justices and county officers, or others, when directed by statute or the Government so to do, and taking receipts therefor from each justice or officer.....	.10
83. For accounting to the county member for the copies of statutes not called for by the justices and county officers, and delivering the same to him, wherever such duty is required by statute, or by the Government and no other fee allowed.....	1.00
84. For receiving and filing voters' lists for an entire municipality under <i>The Voters' Lists Act</i> .....	.25
85. For filing each list, return, or other paper, where no charge is specially provided for, except accounts and claims against the county, and papers connected with matters to be charged against private individuals, ( <i>to be paid out of the county funds, or by the party for whom the service is rendered, according to the nature of the case</i> ).....	.08

(a) When the offices of the clerk of the peace and Crown attorney are held by the same person and there is a similar or the same fee provided for the same service to each officer, only one fee is to be charged or allowed.

(b) Items numbered from 1 to 67 of the foregoing tariff shall only apply to proceedings in the courts of general sessions of the peace, and shall not supersede any existing tariff of fees for services rendered by the clerk of the peace out of sessions.

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*For services in County or District Court Judges' Criminal Court.*

86. Attending and service in court, and making all necessary entries; for each prisoner brought before the judge, and not consenting to be tried—in all.....	\$ .50
87. For attendance in court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction; for each prisoner.....	2.00
88. Preparing judge's warrant to bring up the body of prisoner, and delivering the same to sheriff; for each prisoner.....	.50
89. Issuing writ of summons to witness when necessary.....	.40
90. Copy of summons, each.....	.20
91. Warrant of remand, when issued and delivered to sheriff.....	.50
92. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same..... <i>(the same fees as allowed for like services at the general sessions of the peace.)</i>	

R.S.O. 1927, c. 126, Sched. A, "Clerks of the Peace."

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CROWN ATTORNEYS.

In all criminal trials in which no costs have been ordered to be paid, or if ordered to be paid, cannot be made of the defendant, the Crown attorney shall be entitled to receive for the services rendered by him in such case, the following fees to be paid upon the certificate of the chairman of the board of audit and to be taken in lieu of, and not in addition to, the fees which have been heretofore payable for services rendered in such cases, viz.:—

1. For receiving and examining all informations, depositions, documents and papers connected with a criminal charge..	\$ 2.00
2. For preparing draft and engrossed copy of every indictment or charge.....	2.00
3. For all services before grand jury at each sessions.....	5.00
4. Attending court irrespective of the number of cases dealt with, per diem.....	25.00
5. For all services in addition to any item in this tariff for taking prosecution to judgment as well after as before the trial...	5.00
6. Receiving and examining all informations and other documents and papers in connection with each criminal case at a sittings of the Supreme Court upon a certificate of the counsel for the Crown at the trial that the fee should be allowed.....	4.00

N.B.—Half the fee to be charged if the case has remained undisposed of from a prior court and is prosecuted to judgment. These fees not to be allowed if the Crown attorney is also counsel for the Crown.



7. Preparing a subpoena at a trial at a sittings of the Supreme Court.....	\$1.00
8. Every copy of a subpoena at a trial at a sittings of the Supreme Court.....	.20
9. Per diem fee assisting Crown counsel at assizes in cases in which the superior court has exclusive jurisdiction on certificate of Crown counsel, up to.....	10.00
10. Affidavit and application to judge for <i>habeas corpus ad testificandum</i> and writ, etc.....	2.00
11. Postage per quarter.....	2.00
12. For attendance on the judge of the county court by his special requisition in writing where application is made by a prisoner to be admitted to bail.....	2.00
13. For attending magistrates' court in summary trials under part XVI of the Criminal Code where requested in writing to attend by the magistrate or by two justices of the peace acting under subclause VII of clause <i>a</i> of Section 771 of the Criminal Code, per case.....	10.00
When out of the city, town or village, in which the Crown attorney resides, in addition a per diem allowance (not including expenses).....	5.00
14. Attending preliminary inquiry in county or district town, per hour.....	2.00
Not exceeding in any one day.....	10.00
15. Attending preliminary inquiry out of county or district town (not including expenses), per diem.....	10.00
16. The same fees for attending coroners' inquests as in preliminary inquiries.....	
17. If copies of depositions are required by the presiding judge or Crown counsel the same shall be prepared by the Crown attorney and allowed at the rate of 10c. per folio.....	
18. General fee as an allowance to cover all services for which no fee is provided, including departmental reports, under any statute, Order-in-Council, departmental direction, or otherwise, and including advising magistrates, justices of the peace, coroners, provincial police officers and license inspectors, in discharge of their duties and the public generally on criminal matters, per quarter.....	50.00

(a) Where a number of charges are pending against the same person, and a conviction has been obtained on one or more indictments, fees, and costs on the further proceedings upon the other charges, are not to be made or allowed on taxation, unless in cases where the chairman would, in the event of additional convictions, impose a heavier sentence, or unless there are special circumstances, which, in the opinion of the chairman render it expedient that the other cases, or some of them, should be proceeded with and tried.

(b) In cases of indictment for the obstruction, or the non-repair of a highway or bridge, or of indictment for nuisance (where there is a *bona fide* dispute as to boundary, or title, or claim of right, and where no present public inconvenience is being suffered from what is complained of) the Crown attorney shall not be entitled to charge costs to the public, without the special sanction of the Attorney-General, but will collect his fees and costs from the parties only.

(c) When the offices of Crown attorney and clerk of the peace are held by the same individual, and a similar or the same fee is provided for the same service to each officer only one fee is to be charged or allowed.

R.S.O. 1927, c. 126, Sched. A, "Crown Attorneys"; 1929, c. 40, s. 4; O-in-C. 12th June, 1929.

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CLERKS OF MAGISTRATES' COURTS AND OTHER COURTS.

1. For certificates of previous conviction under section 982 of the Criminal Code..... \$1.00

R.S.O. 1927, c. 126, Sched. A, "Clerks of the Police Courts and Other Courts."

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CONSTABLES.

1. The arrest of each individual upon a warrant, or arresting without warrant an individual, who is subsequently convicted or committed for trial..... \$2.00
2. Serving summons or subpoena..... .50
3. Mileage to serve summons or subpoena or to make an arrest, one way, per mile..... .15  
(If no public conveyance is available reasonable livery charges to be allowed.)
4. Mileage when service cannot be effected, upon proof of due diligence, one way, per mile..... .15
5. Returning with prisoner after arrest to bring same before magistrate or justice for preliminary hearing or trial where the magistrate or justice is not at the place where the warrant was handed constable and where the journey is of necessity over a different route than that travelled to make the arrest, per mile, one way..... .15
6. Taking a prisoner to gaol on remand or committal, one way.. .15  
(Not payable if this is return journey from taking prisoner before the justice. Double mileage not being chargeable.)
7. Where a conveyance is necessary, proper disbursements for livery or railway fare to convey prisoner before magistrate or justice for preliminary hearing, trial or remand after arrest or on committal to gaol, shall be allowed.
8. Attending magistrate or justice on summary trials or on examination of prisoners charged with crime, for each day necessarily employed, only one day's fee on any number of cases..... 2.50
9. Court constables attending sittings of Supreme Court, general sessions, county court, and county or district court judges' criminal court and sittings of surrogate court for the hearing of contentious cases each day..... 2.50
10. Mileage, travelling to attend courts mentioned in Item No. 9. .15  
(When public conveyance can be taken, only reasonable disbursements to be allowed.)

11. Constables attending as witnesses in indictable cases at the assizes, sessions, county or district court judges' criminal court or before magistrates in cases tried under Part XVI of the Criminal Code, each day.....	\$2.50
(In the case of constables attending a trial at a place other than where such constable resides, railway fares and reasonable hotel and other travelling expenses shall be allowed in addition to the above.)	
12. Summoning jury for coroner's inquest, including attending at inquest and all services in respect thereof, if held on the same day as jury summoned.....	3.00
13. Attending each adjournment thereof.....	2.50
14. Serving summons or subpoena to attend before coroner or provincial coroner.....	.50
(Subject to No. 12).	
15. Mileage, serving same.....	.15
16. Exhuming body under coroner's warrant.....	4.00
17. Re-burying same.....	2.00
18. Serving distress warrant and returning same.....	1.50
19. Advertising under the distress warrant.....	1.50
20. Travelling to make distress or to search for goods to make distress, where no goods are found, one way, per mile.....	.15
21. Appraisements, whether by one appraiser or more, 2c. in the dollar on the value of the goods.	
22. Catalogue, sale and commission and delivery of goods, 5c. in the dollar on the net proceeds of the goods.	
23. Executing search warrant.....	2.00
24. Mileage to execute search warrant.....	.15

R.S.O. 1927, c. 126, Sched. A, "Constables"; O-in-C. 14th January, 1930.

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CRIERS.

1. Making proclamation for opening or adjourning the High Court, general sessions, county court, and county court judges' criminal court .....	\$0.25
2. Making every other proclamation.....	.25
3. Calling and swearing grand jury.....	.50
4. Calling and swearing each petit jury.....	.50
5. Calling and swearing each witness or constable.....	.25
6. Attending High Court, general sessions, county court, and county or district court judges' criminal court, per diem..	3.00

R.S.O. 1927, c. 126, Sched. A, "Criers"; 1928, c. 21, s. 7 (1); O-in-C. 14th January, 1930.

SCHEDULE B.

Province of Ontario,  
Dr. to A.B.,  
Constable of the County of

Date of Service	Number of Item	Nature of Service and Particulars of Mileage	Amount Claimed by Official	Deferred for Further Inquiry	Dis-allowed	Amount Payable by the Government

In the case of a constable or coroner, the justice of the peace shall add the following certificate:

I hereby certify that the above services were duly performed by constable under my directions, and that the above named prisoner was committed by me for trial at the Supreme Court (or as the case may be).

F. G.,  
Justice of the Peace for the above County.

To Wit: } I (Affidavit on back.)  
County of } in the county of of  
say:— } make oath and

(1) That the within account of services performed by me is true in every particular.

(2) That I have not been paid any part of the charges, nor has any other person to my knowledge received payment for me or on my behalf, nor has any other person, to my knowledge, rendered an account for the same services.

(3) That to perform such services I necessarily travelled the distances in the account mentioned.\*

Sworn before me at in the County of  
this day of A.D. 19 .

[\* Where special explanations are given, add: (4) "and that the explanatory statements written upon the said account are true in every particular."]

Endorsement on back of Account.	Constable.
January, 19	
County of	
Account of A.B.,	



## SCHEDULE C.

## SHERIFFS.

1. Attending the Supreme Court. (Sheriff's tariff, Schedule A, item 1.)
2. Attending the general sessions, jury sittings or the county court and county or district court judges' criminal court. (Tariff, item 2.)
3. Summoning each grand jury for the Supreme Court or general sessions. (Tariff, item 3.)
4. Summoning each petit jury for the Supreme Court or general sessions. (Tariff, item 4.)
5. For every prisoner discharged from gaol, having been committed by warrant for trial at the Supreme Court or general sessions. (Tariff, item 5.)
6. For the discharge from gaol of every prisoner convicted by a magistrate under Part XVI or by a judge of the county or district court under Part XVIII of the Criminal Code. (Tariff, item 6.)
7. Bringing up each prisoner for arraignment, trial and sentence whether convicted or acquitted, including prisoners who have been out on bail, for each day necessarily brought up. (Tariff, item 7.)
8. Drawing calendar of prisoners for trial at the Supreme Court, including copies. (Tariff, item 8.)
9. Advertising the holding of the Supreme Court or general sessions. (Tariff, item 9.)
10. Every annual or general return, required by law, or by the Government, respecting the gaol or the prisoners therein. (Tariff, item 10.)
11. Every other return made to the Government or the Legislature or to the sessions, required by statute or by order of the court. (Tariff, items 11, 12 and 13.)
12. Every return to the Inspector of Legal Offices. (Tariff, item 15.)
13. Returning precepts to the Supreme Court or general sessions. (Tariff, item 16.)
14. Conveying prisoners to the penitentiary or reformatory, or to another county or district and disbursements. (Tariff, item 17.)
15. Arrest of each individual upon a warrant (if payable by the Crown.) (Tariff, item 18.)
16. Serving subpoena upon each person (if payable by the Crown.) (Tariff, item 19.)
17. Travelling in going to execute warrant or serve subpoena, and in returning with prisoner (if payable by the Crown.) (Tariff, item 20.)
18. Conveying prisoner on attachment, judge's order or habeas corpus to another county, exclusive of disbursements (if payable by the Crown.) (Tariff, item 21.)
19. Making return upon attachment or writ of *habeas corpus* (if payable by the Crown.) (Tariff, item 22.)

20. Levying fines or issues on recognizances estreated, and mileage. (Tariff, item 23.)

21. Disbursements in carrying into execution the sentence of the court in capital cases. (Tariff, item 24.)

22. Attending and superintending the execution in such cases. (Tariff, item 25.)

23. Summoning each constable to attend the Supreme Court or general sessions. (Tariff, item 26.)

24. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the penitentiary or reformatory, or to any other county or district or otherwise, or for other purposes in the discharge of the duties of his office (when not otherwise provided for). (Tariff, item 28.)

25. Notification to judge, under section 826 of the Criminal Code. (Tariff, item 31.)

26. Making special return of prisoners sentenced to Ontario Reformatory or Mercer Reformatory and of such persons eligible for removal to Ontario Reformatory or Mercer Reformatory as the Inspector may direct. (Tariff, item 32.)

27. Certified copy of sentence. (Tariff, item 33.)

28. Taking prisoner to railway station to be delivered to bailiff for Ontario Reformatory or Mercer Reformatory, in addition to other necessary expenses incurred in such duty. (Tariff, item 34.)

29. For general supervision over the gaol and the prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter. (Tariff, item 36.)

30. For every prisoner discharged from gaol other than prisoners committed by warrant, for trial at the assizes or general sessions. (Tariff, item 37.)

31. For services performed under section 1059 of the Criminal Code. (Tariff, item 38.)

32. Attending and carrying out sentences in cases of flogging and disbursements connected therewith. (Tariff, item 39.)

33. One-half of general fee, as an allowance to cover services under any statute, Order-in-Council or otherwise, for which no fee is provided. (Tariff, item 40.)

R.S.O. 1927, c. 126, Sched C., "Sheriffs."

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(NOTE.—By "*The Coroners Act*," the fees of coroners as set forth in Schedule A to that Act are payable out of the Consolidated Revenue Fund.)

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#### CLERKS OF THE PEACE.

1. Drawing precept to summon the grand and petit jury, attending judge to sign same and transmitting to the sheriff. (See Tariff, Clerks of the Peace, item 1.)

2. Attending each general sessions. (Tariff, item 2.)

3. Making up record of each general sessions. (Tariff, item 4.)

4. Notice of every appointment of a constable under *The Constables Act*, or other officer appointed by the justices in session, and notice of any order made by the general sessions when required to be notified to any person or party. (Tariff, items 5 and 7.)

5. Issuing subpoena (if payable by the Crown.) (Tariff, item 9.)

6. Issuing bench warrant. (Tariff, item 11.)

7. Every recognizance of the peace for good behaviour. (Tariff, item 12.)

8. Drawing out and taking each recognizance to appear, either of prosecutor, defendant or witness, (if payable by the Crown.) (Tariff, item 13.)

9. Calling parties on their recognizance and recording their non-appearance, (if payable by the Crown.) (Tariff, item 14.)

10. Drawing order of the judge to estreat and put in process. (Tariff, item 16.)

11. Entering any order of the court of general sessions or of the judge of the county or district to remit an estreat and recording an entry of the same (if payable by the Crown.) (Tariff, item 17.)

12. Making out lists of forfeited recognizances and fines to submit to the presiding judge after each general sessions in order that they may be estreated. (Tariff, item 18.)

13. Entering and extracting upon a roll, in duplicate, the fines, issues, amerciaments and forfeited recognizances recorded in each general sessions, making oath to the same, and transmitting it to the sheriff. (Tariff, item 19.)

14. Making out and delivering to the sheriff the writ of *feri facias* and *capias* thereon. (Tariff, item 20.)

15. Making out and certifying copy of roll and return of sheriff, and transmitting it to Treasurer of Ontario. (Tariff, item 21.)

16. Copies of depositions or examinations furnished to prisoners, defendants, or their counsel, when required by the party or his counsel (if payable by the Crown.) (Tariff, item 22.)

17. Receiving and filing each presentment of the grand jury. (Tariff, item 24.)

18. Arraigning each prisoner or defendant indicted, and recording plea (if payable by the Crown.) (Tariff, items 26 and 27.)

19. Empanelling and swearing the jury in every case, whether criminal or otherwise, where by law a trial by jury is to be had at the general sessions (if payable by the Crown.) (Tariff, item 29.)

20. Swearing each witness upon any trial by jury or to go before the grand jury (if payable by the Crown.) (Tariff, items 30 and 33.)

21. Charging the jury with the prisoner or defendant, upon each indictment (if payable by the Crown.) (Tariff, item 31.)

22. Filing each exhibit upon a trial (if payable by the Crown.) (Tariff, item 32.)

23. Receiving and recording each verdict of a petit jury, in any case of trial by jury (if payable by the Crown.) (Tariff, item 34.)

24. Recording each judgment or sentence of the court upon a verdict or confession (if payable by the Crown.) (Tariff, item 35.)

25. Making out and delivering to the sheriff a calendar of the sentences at each court. (Tariff, item 36.)

26. Certified copy of sentences sent with the prisoners to the penitentiary or reformatory after each general sessions. (Tariff, item 37.)

27. Making up record of conviction or acquittal, in any case where necessary (if payable by the Crown.) (Tariff, item 38.)

28. Discharging any prisoner by proclamation. (Tariff, item 39.)

29. Furnishing to sheriff and coroners revised lists of constables, whenever ordered to be done by the justices in general sessions. (Tariff, item 41.)

30. Drawing orders of general sessions for altering the limits of division courts. (Tariff, item 45.)

31. Making out and transmitting copies of such orders to the Government. (Tariff, item 46.)

32. Making out and transmitting copies of such orders to each division court affected by the alteration. (Tariff, item 47.)

33. Making up books of orders of general sessions, declaring the limits of the division courts, and entering the times and places of holding the courts. (Tariff, item 48.)

34. Making out and transmitting copies (with letter) to the clerk of each division court, of the divisions made by the general sessions. (Tariff item 49.)

35. Making out and transmitting a copy thereof to the Government. (Tariff, item 50.)

36. For each copy of the schedule of division courts, with the order of general sessions for publication. (Tariff, item 68.)

37. Swearing each party to an affidavit, when no charge is elsewhere provided for it (if payable by the Crown.) (Tariff, item 79.)

*For services in County or District Court Judges' Criminal Court.*

38. Attending and service in court, and making all necessary entries for each prisoner brought before the judge, and not consenting to be tried. (Tariff, item 86.)

39. For attendance in court and services rendered at trial making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner. (Tariff, item 87.)

40. Preparing judge's warrant to bring up the body of prisoner, and delivering same to sheriff. (Tariff, item 88.)

41. Issuing writ of summons to witness. (Tariff, item 89.)

42. Copy of summons. (Tariff, item 90.)

43. Warrant of remand, when issued and delivered to sheriff. (Tariff, item 91.)

44. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same. (Tariff, item 92.)

R.S.O. 1927, c. 126, Sched. C, "Clerks of the Peace."



## CROWN ATTORNEYS.

1. For receiving and examining all informations, depositions, documents, and papers connected with a criminal charge. (Crown attorney's tariff, Schedule A, item 1.)
2. For preparing draft and engrossed copy of every indictment, or charge. (Tariff, item 2.)
3. For all services before grand jury at each sessions. (Tariff, item 3.)
4. For attending court, irrespective of number of cases dealt with. (Tariff, item 4.)
5. For all services not otherwise provided for in tariff in connection with taking prosecution to judgment before and after trial. (Tariff, item 5.)
6. Receiving and examining all informations and other documents and papers in connection with each criminal case at a sittings of the Supreme Court upon the certificate of the counsel for the Crown at the trial that the fee should be allowed. (Tariff, item 6.)  
 N.B.—Half the fee to be charged if the case has remained undisposed of from a prior court and is prosecuted to judgment. These fees not to be allowed if the Crown attorney is also counsel for the Crown.
7. Preparing subpoena. (Tariff, item 7.)
8. Every copy of subpoena. (Tariff, item 8.)
9. Affidavit and application to judge for *habeas corpus ad testificandum* and writ, etc. (Tariff, item 10.)
10. Postage per quarter. (Tariff, item 11.)
11. For attendance on the judge of the county court by his special requisition in writing, where application is made by a prisoner to be admitted to bail. (Tariff, item 12.)
12. For attending magistrates' court in summary trials under Part XVI of the Criminal Code where requested in writing to attend by the magistrate or by two justices of the peace acting under sub-clause VII of clause a of section 771 of the Criminal Code, and also when out of the city, town or village, in which a Crown attorney resides a per diem allowance. (Tariff, item 13.)
13. One-half of general fee as an allowance to cover all services for which no fee is provided, including departmental reports, under any statute, Order-in-Council, departmental direction, or otherwise, and including advising magistrates, justices of the peace, coroners provincial police officers, and license inspectors, in the discharge of their duties and the public generally on criminal matters, per quarter. (Tariff, item 18.)

R.S.O. 1927, c. 126, Sched. C, "Crown Attorneys."

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## CLERKS OF THE MAGISTRATES' COURTS AND OTHER COURTS.

For certificate of previous conviction. (Tariff, item 1.)

R.S.O. 1927, c. 126, Sched. C, "Clerks of Police Courts and Other Courts."

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## CONSTABLES.

1. Arrest of each individual upon a warrant, or arresting without a warrant an individual who is subsequently convicted or committed for trial. (Constables' tariff, Schedule A, item 1.)
2. Serving summons or subpoena. (Tariff, item 2.)
3. Mileage to serve summons or subpoena or to make an arrest. (If no public conveyance is available reasonable livery charges to be allowed.) (Tariff, item 3.)
4. Mileage when service cannot be effected, upon proof of due diligence. (Tariff, item 4.)
5. Returning with prisoner after arrest to bring same before magistrate or justice for preliminary hearing or trial where the magistrate or justice is not at place where warrant was handed constable and where the journey is of necessity over a different route than that travelled to make the arrest. (Tariff, item 5.)
6. Taking prisoner to gaol on remand or committal. (Tariff, item 6.)
7. Where a conveyance is necessary, proper disbursements for livery or railway fare to convey prisoner before magistrate or justice for preliminary hearing, trial or remand after arrest or on committal to gaol, shall be allowed. (Tariff, item 7.)
8. Attending magistrate or justices on summary trials or on examination of prisoners charged with crime, for each day necessarily employed, only one day's fee on any number of cases. (Tariff, item 8.)
9. Three-fifths of the fee payable to court constables attending Supreme Court, general sessions and county or district court judges' criminal court. (Tariff, item 9.)
10. Mileage, travelling to attend courts, mentioned in item 9. (When public conveyance can be taken, only reasonable disbursements to be allowed.) (Tariff, item 10.)
11. One-third of fee and expenses payable to constables attending as witnesses in indictable cases of assizes, sessions, county or district court judges' criminal court, or before magistrates in cases tried under Part XVI of the Criminal Code. (Tariff, item 11.)
12. Summoning jury for coroner's inquest, including attending at inquest and all services in respect thereof if held on the same day as jury summoned. (Tariff, item 12.)
13. Attending each adjournment thereof. (Tariff, item 13.)
14. Serving summons or subpoena to attend before coroner. (Tariff, item 14.)
15. Mileage serving same. (Tariff, item 15.)

R.S.O. 1927, c. 126, Sched. C, "Constables."

## OTHER MATTERS.

*Section 15 (4).*

1. All of the following expenses of criminal justice in so far as they relate to prisoners convicted of indictable offences are payable under subsection 4 of section 15.

- (1) Disbursements in transporting prisoners to the penitentiary or reformatory and for carrying other sentences of the court into execution.
- (2) Fee to gaol surgeon for the examination of each prisoner eligible for removal to or sentenced to a penitentiary or reformatory.
2. Such proportion of the following expenses of criminal justice as bears the same ratio to the whole of such expenses as the number of prisoners convicted of indictable offences bears to the whole number of prisoners, confined upon all charges during the same period.
  - (1) The maintenance of prisoners including, but not so as to restrict the generality of the foregoing, the following:
    - (a) The salaries of the gaoler, matron, gaol surgeon and turnkeys of each county gaol, and the retiring allowances granted to any of such officials under *The Municipal Act*.
    - (b) Medicines, fuel and other similar necessities for the gaol and the prisoners confined therein.

R.S.O. 1927, c. 126, Sched. C, "Other Matters."

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CRIERS.

1. Making proclamation for opening or adjourning the sittings of the Supreme Court and general sessions. (Crier's tariff, Schedule A, item 1.)
2. Making every other proclamation. (Tariff, item 2.)
3. Calling and swearing grand jury. (Tariff, item 3.)
4. Calling and swearing every petit jury. (Tariff, item 4.)
5. Calling and swearing every witness or constable. (Tariff, item 5.)
6. Attending Supreme Court and general sessions. (Tariff, item 6.)

R.S.O. 1927, c. 126, Sched. C, "Criers."

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## CHAPTER 142.

## The Crown Witnesses Act.

Interpreta-  
tion.**1.** In this Act,—

“Judge.”

(a) “Judge” shall mean and include the judge presiding at any sittings of the Supreme Court, the court of general sessions of the peace, the county or district court judges’ criminal court, and magistrates presiding in courts for the summary trial of indictable offences under the *Criminal Code* and a magistrate or justice of the peace holding a preliminary inquiry;

R.S.C.,  
c. 36.

“Trial.”

(b) “Trial” shall include a preliminary inquiry before a magistrate or justice of the peace. R.S.O. 1927, c. 127, s. 1.

Compensa-  
tion to  
Crown wit-  
nesses.

**2.**—(1) The judge may grant to any person who attends at the instance of the Crown to give evidence, an order for the payment of such sum as seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but such sum shall not exceed the amount payable in civil cases in the Supreme Court.

Additional  
fees.

(2) The judge may include in his order such sum in addition to ordinary witness fees as he may deem reasonable and sufficient to compensate any witness by whom a plan has been prepared or any other article furnished or work done for use at the trial for his costs and charges in preparing such plan or other article or doing such work.

Special fee.

(3) A special fee may be paid to an expert witness upon the fiat of the Attorney-General. R.S.O. 1927, c. 127, s. 2.

Or where no  
indictment  
preferred or  
trial had.

**3.** Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the court in obedience to a recognizance or subpoena, or at the instance of the Crown. R.S.O. 1927, c. 127, s. 3.



4.—(1) The order shall not be made except on a certificate by the counsel for the Crown, and by the Crown attorney or his representative containing the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect, but the judge may require further evidence.

Certificate whereon order to be made.

(2) When the Crown attorney is not present at a preliminary inquiry before a magistrate, or justice of the peace, no certificate shall be necessary. R.S.O. 1927, c. 127, s. 4.

When certificate unnecessary.

5. The order shall be prepared by the proper officer of the court and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed, or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R.S.O. 1927, c. 127, s. 5.

Order, how made out and to whom directed.

6. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named the amount stated in the certificate, on his signing a receipt therefor in person. R.S.O. 1927, c. 127, s. 6.

Payment by the treasurer.

7. Where the trial takes place in a county other than the county in which the offence was committed the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R.S.O. 1927, c. 127, s. 7.

Payment by a treasurer on whom order is not made.

8. One-third of the amount paid to witnesses under this Act shall be paid to the county treasurer out of the Consolidated Revenue Fund if such payment is approved by the county board of audit appointed under *The Administration of Justice Expenses Act* and where such amount has been paid by a municipality other than the county, the county treasurer shall pay to such municipality the amount to which it is entitled. 1935, c. 15, s. 2.

Reimbursement of one-third by Province. Rev. Stat., c. 141.

9. In respect of witnesses in cases sent from the unorganized districts for trial in any county the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R.S.O. 1927, c. 127, s. 9.

Idem; in full where witnesses sent from unorganized districts.

Witness in cases tried in unorganized districts.

**10.** The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any court held in any unorganized district, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1927, c. 127, s. 10.

On recovery from prosecutor or defendant, the municipality to be repaid.

**11.** Where witness fees paid under the provisions of this Act are, by virtue of the judgment of the court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R.S.O. 1927, c. 127, s. 11.

Fee to Crown attorney in respect of certificate.

**12.**—(1) The Crown attorney shall be entitled to receive from the corporation of the county in which the court is held a fee of \$1, in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted.

Reimbursement.

(2) One-third of such fee shall be paid to the corporation out of the Consolidated Revenue Fund. R.S.O. 1927, c. 127, s. 12.

Witness fees payable on prosecution of claims, etc., by His Majesty.

**13.** In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property whereto His Majesty claims to be entitled for the use of Ontario, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. R.S.O. 1927, c. 127, s. 13.

Compensation not payable before determination of the case.

**14.** Nothing herein shall entitle a witness to require payment of any sum previous to the determination by adjournment or otherwise at the court of the prosecution or trial at which he attends as a witness. R.S.O. 1927, c. 127, s. 14.

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## CHAPTER 143.

## The Estreats Act.

1.—(1) Unless otherwise provided all fines and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the Supreme Court or a court of general sessions of the peace, shall, upon the adjournment of such court, be entered and extracted on a roll, by the registrar or clerk of the peace, as the case may be, or by some other person under the direction of a judge, which roll shall be made in duplicate and signed by the registrar or clerk or by the judge.

Entry of  
fines, etc.,  
within 21  
days from  
adjournment  
of Court.

(2) The clerk or other person by whom the rolls are prepared shall, at the foot thereof, certify in the following form:

Affidavit by  
clerk.

I, *A. B.*, (*describing his office*), do certify that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the court therein mentioned, and which in right and due course of law ought to be levied and paid, are inserted in such roll; and that in the roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful error, omission, misnomer, or defect whatever.

Form.

*A. B.*

R.S.O. 1927, c. 128, s. 1.

2.—(1) Subject to the provisions of section 8 as soon as the rolls are prepared one shall, in the Supreme Court, be transmitted to the Central Office at Toronto, and in the general sessions shall remain deposited in the office of the clerk of the peace, and in both cases the other, with a writ of execution and *capias* (Form A) shall be transmitted to the sheriff of the county or district in and for which such court was held.

Transmission  
of copy of  
roll to  
Central  
Office or  
clerk of the  
peace.

Execution.

(2) Where the writ is intended to be executed in any other county or district a certified copy of the roll, with a concurrent writ of execution and *capias* (Form A) shall be transmitted to the sheriff of such county or district.

Idem.

(3) A writ, if unexecuted, shall remain in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution.

Duration of  
writ.

Alias.

(4) Where a recognizance is estreated, and has not been discharged or satisfied, the court may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years may have elapsed since the issue of the original writ. R.S.O. 1927, c. 128, s. 2.

Entry of fines, etc., and issue of execution before adjournment of court.

3.—(1) At any time before the adjournment of the court the registrar or clerk shall at the request of the Crown attorney prepare and certify a roll dealing with any one or more forfeited recognizances or fines and issue a writ of execution and *capias* in respect thereof and such writ of execution and *capias* may be immediately placed in the hands of the sheriff for execution.

Note to be made on roll provided by section 1.

(2) In any such case the forfeiture or fine shall be mentioned in the roll and certificate required to be made up upon the adjournment of the court with an annotation of the issue of the certificate and execution and the execution then to be issued shall not apply thereto. R.S.O. 1927, c. 128, s. 3.

Mode of proceeding to levy fine, etc.

4. The sheriff shall proceed to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances, on the goods and chattels, lands and tenements of the persons named in the roll, or for taking into custody the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made, and every person so taken shall be lodged in the common gaol of the county or district until satisfaction is made or until the court, upon cause shown by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1927, c. 128, s. 4.

Estreat of recognizances to county court judges' criminal court and magistrates.

5.—(1) Where a person bound by a recognizance for his appearance, or for whose appearance any other person has become so bound, does not appear at the time and place required or during the time the judge of the county or district judges' criminal court or magistrate or justice of the peace has appointed, according to the terms of the recognizance, the judge or magistrate or justice shall within forty-eight hours after such failure to appear cause a record of the recognizance to be drawn up and shall sign the same and return it to the clerk of the peace for the county or district with a certificate on the back thereof signed by the judge, magistrate or justice stating that the person charged has not complied with the obligation contained in the recognizance.

Record of estreats at sessions.

(2) The clerk of the peace shall make a like record of estreat of every such recognizance as in the case of other



recognizances forfeited at the court of general sessions of the peace.

(3) The other provisions of this Act shall apply to every such recognizance. R.S.O. 1927, c. 128, s. 5.

Application of the provisions.

(4) In the case of the forfeiture of a recognizance given by or on behalf of a person for his appearance before a magistrate or justice of the peace or before the judge of the county or district judges' criminal court or by or on behalf of a person appealing from a conviction or order made in the first instance or on appeal, if the court of general sessions of the peace is not in session at the time of such forfeiture the clerk of the peace shall prepare and certify a roll setting out the forfeited recognizance and lay the same before a judge of the county court in chambers, and the judge may thereupon by memorandum upon the roll order the estreating of such recognizance, and the clerk of the peace shall thereupon proceed as in other cases provided for by this Act. 1928, c. 22, s. 2.

When recognizance forfeited while court not in session.

6. Where a person bound by recognizance for his appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed which the Province is entitled to receive makes default, the officer of the court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of his non-appearance, the ends of justice have been defeated or delayed. R.S.O. 1927, c. 128, s. 6.

Report by officer of the court.

7. Every officer before a recognizance is estreated shall lay the list before a judge of the court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just, and no officer of the court shall estreat or put in process a recognizance without the written order of the judge before whom the list has been laid. R.S.O. 1927, c. 128, s. 7.

Estreat of recognizances, etc.

Judge's order.

8.—(1) Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become so bound, to prosecute or give

Forbearance from estreat under certain circumstances.

evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the court, the court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated, and with respect to all recognizances estreated and all fines imposed by any court for the non-attendance of a juror or constable, or of a public officer bound to attend at the court, if it appears to the satisfaction of the judge who presided thereat that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances which rendered his absence justifiable, the judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed shall not be levied.

Forbearance from levying fines, etc., under certain circumstances.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the judge for his revision, and the judge may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied, and the sheriff shall observe the direction of the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1927, c. 128, s. 8.

Procedure where lands are seized.

9. Where the sheriff takes land or tenements in execution his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1927, c. 128, s. 9.

Conditions upon which a party in custody of the sheriff may be released.

10. If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the court shall sit, then and there to abide the decision of the court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the court, such person shall be discharged out of custody, and if he does not appear in pursuance of his undertaking the court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1927, c. 128, s. 10.

Discharge of forfeited recognizances, etc., under certain circumstances.

11. The court, into which a writ of execution and *capias* is returnable, may inquire into the circumstances of the case and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfac-

tion thereof, and may make such order thereon as to the court appears just, and the order shall be a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1927, c. 128, s. 11.

**12.** The sheriff to whom a writ is directed shall with his return state on the back of the roll attached to the writ what has been done in the execution thereof, and the return shall be filed in the proper office of the court into which it is made. R.S.O. 1927, c. 128, s. 12.

Manner of  
return by  
sheriff, etc.

**13.** A copy of the roll and return, certified by the clerk of the peace or by one of the registrars of the Supreme Court shall be forthwith transmitted to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned which have been remitted by order of the court, in whole or in part, or directed to be forborne under the authority of this Act. R.S.O. 1927, c. 128, s. 13; 1936, c. 56, s. 7.

Certified  
return to  
Inspector of  
Legal Offices.

**14.** The sheriff shall, without delay, pay over all money by him collected to the Treasurer of Ontario or other officer or person entitled to receive the same. R.S.O. 1927, c. 128, s. 14.

Payment to  
Treasurer  
of Ontario or  
person  
entitled.

**15.** The judges of the Supreme Court authorized to make rules for regulating the practice of the Court, may make rules regulating the practice and procedure for the estreating of recognizances in the Supreme Court or in the court of general sessions of the peace. R.S.O. 1927, c. 128, s. 15.

Rules.

**16.—(1)** The provisions of this Act shall apply and extend to any bond, recognizance or other security furnished under any statute of Ontario by or on behalf of any person for his appearance before a magistrate or a justice or for the prosecution of any appeal in any matter or case punishable on summary conviction or in which an appeal lies from a conviction or order made by a judge, magistrate or justice.

Recogniz-  
ances to  
prosecute  
appeal from  
convictions,  
etc.

**(2)** Rules may be made for regulating the practice upon the estreating of any such bond, recognizance or other security by the same authority and in the same manner as under the provisions of section 15. 1928, c. 22, s. 3.

Rules.

## FORM A.

## WRIT OF EXECUTION AND CAPIAS.

(Section 2.)

GEORGE THE SIXTH, by the Grace of God, of the United Kingdom of Great Britain, Ireland, and the Dominions beyond the Seas, King; Emperor of India, Defender of the Faith, etc.

To the Sheriff of

, Greeting:

You are hereby commanded to levy of the goods and chattels, lands and tenements of each of the persons mentioned in the roll or extract to this Writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons respectively, then, and in all such cases, that you take the bodies of such persons and keep them safely in the Gaol of your county (*or District*), there to abide the judgment of Our Supreme Court (*or Court of General Sessions of the Peace, as the case may be*) upon any matter to be shown by them respectively, or otherwise to remain in your custody as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said Court within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, for which you will be held answerable; and what you do in the premises make appear before Us in Our Supreme Court at Toronto, (*or at the next Court of General Sessions of the Peace for the county (or district), of, (as the case may be),*) immediately after the execution hereof and have then and there this Writ.

Witness

this

day

of

19 .

A. B.,

Registrar (*or Clerk of the Peace or as the case may be*) for the County of

R.S.O. 1927, c. 128, Form A.



## CHAPTER 144.

## The Fines and Forfeitures Act.

**1.** In this Act "fine" shall include all pecuniary fines, "Fine." penalties or forfeitures. R.S.O. 1927, c. 129, s. 1.

**2.**—(1) Where a fine is imposed for a contravention of an Act of this Legislature, and no other provision is made for the recovery thereof it shall be recoverable with costs by a civil action at the suit of the Crown or of any person suing as well for the Crown as for himself before any court of competent jurisdiction upon the evidence of one credible witness other than the person interested. Recovery of penalties by action.

(2) If no other provision is made and the recovery is at the suit of the Crown the fine shall belong to the Crown, and if at the suit of a private party then one-half shall belong to him and the other half shall belong to the Crown. Application of penalty.

(3) Where a fine belongs to the Crown the Lieutenant-Governor in Council may allow any part thereof to any person by whose information or aid it was recovered. R.S.O. 1927, c. 129, s. 2. Allowing part of penalty to informant.

**3.** Where the amount of the fine is in the discretion of the court or judge or in case the court or judge has power to impose imprisonment in addition to or in lieu of the fine and no other mode of recovery is prescribed it may be recovered upon indictment in the Supreme Court or general sessions of the peace. R.S.O. 1927, c. 129, s. 3. Recovery of penalties by indictment.

**4.** Every fine imposed for a contravention of any statute in force in Ontario and the proceeds of every forfeiture imposed and given to the Crown shall, where the disposal thereof is within the power of this Legislature, and except so far as other provision is made in respect thereto, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1927, c. 129, s. 4. To whom fine, etc., to be paid.

**5.**—(1) Where a fine is imposed by or under the authority of any Act of this Legislature the court or judge having cognizance of the proceedings for the recovery thereof may at any time after the commencement thereof remit in whole or Remission of penalty by court or judge.

in part such fine, whether the money is in whole or in part payable to the Crown or to some person other than the Crown and whether the same is recoverable by indictment, information, summary process, action or otherwise.

Magistrates  
and justices  
of the peace.

(2) A magistrate or justice of the peace shall not have the authority herein mentioned. R.S.O. 1927, c. 129, s. 5.

Remission  
by Lieuten-  
ant-  
Governor in  
Council.

Rev. Stat.,  
c. 12.

**6.**—(1) The Lieutenant-Governor in Council may at any time remit any fine, mentioned in section 5 in whole or in part unless the same is imposed by *The Legislative Assembly Act*, or by some Act respecting the election of members to the Assembly, or is recoverable in respect of any offence committed in connection with any such election.

Relief  
against  
civil conse-  
quences of  
conviction.

(2) Where a fine is remitted the Lieutenant-Governor in council may also relieve the offender from any other penalty or forfeiture consequent upon his conviction. R.S.O. 1927, c. 129, s. 6.

Costs not  
to be  
remitted.

**7.** Nothing herein contained shall authorize the remitting of costs incurred up to the time of remitting the penalty or forfeiture. R.S.O. 1927, c. 129, s. 7.

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